

Agenda

Planning Committee Meeting

Date: Thursday, 16 January 2025

Time 7.00 pm

Venue: Council Chamber, Swale House, East Street, Sittingbourne, ME10 3HT

Membership:

Councillors Mike Baldock (Chair), Andy Booth, Hayden Brawn, Simon Clark, Kieran Golding, James Hunt, Elliott Jayes (Vice-Chair), Peter Marchington, Claire Martin, Ben J Martin, Richard Palmer, Julien Speed, Paul Stephen, Terry Thompson, Karen Watson and Tony Winckless.

Quorum = 6

Pages

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1. Emergency Evacuation Procedure

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- (d) Anyone unable to use the stairs should make themselves known during this agenda item.

2. Apologies for Absence

3. Minutes

To approve the [Minutes](#) of the Meeting held on 5 December 2024 (Minute Nos. 469 – 480) as a correct record.

4. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves, their families or friends.

The Chair will ask Members if they have any disclosable pecuniary interests (DPIs) or disclosable non-pecuniary interests (DNPIs) to declare in respect of items on the agenda. Members with a DPI in an item must leave the room for that item and may not participate in the debate or vote.

Aside from disclosable interests, where a fair-minded and informed observer would think there was a real possibility that a Member might be biased or predetermined on an item, the Member should declare this and leave the room while that item is considered.

Members who are in any doubt about interests, bias or predetermination should contact the monitoring officer for advice prior to the meeting.

Part B reports for the Planning Committee to decide

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The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services (democraticservices@swale.gov.uk or call 01795 417328) by noon on Wednesday 15 January 2025.

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Decisions by County Council and Secretary of State, reported for information.

Issued on Tuesday, 7 January 2025

The reports included in Part I of this agenda can be made available in alternative formats. For further information about this service, or to arrange for special facilities to be provided at the meeting, please contact democraticservices@swale.gov.uk. . To find out more about the work of this meeting, please visit www.swale.gov.uk

**Chief Executive, Swale Borough Council,
Swale House, East Street, Sittingbourne, Kent, ME10 3HT**

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SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

16th January 2025

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PART 2 Applications for which permission is recommended

PART 3 Applications for which refusal is recommended

PART 4 Swale Borough Council's own development; observation on County Council's development; observations on development in other districts or by Statutory Undertakers and by Government Departments; and recommendations to the County Council on 'County Matter' applications.

PART 5 Decisions by County Council and the Secretary of State on appeal, reported for information

PART 6 Reports containing "Exempt Information" during the consideration of which it is anticipated that the press and public will be excluded

ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

GPDO The Town and Country Planning (General Permitted Development) (England) Order 2015

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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INDEX OF ITEMS FOR PLANNING COMMITTEE – 16th January 2025

- Minutes of last Planning Committee Meeting
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DEFERRED ITEM

DEF ITEM 1 22/502086/OUT MINSTER ON SEA Land to the east of Scoccles Road

PART 2

2.1 18/505157/OUT IWADE Land North of Sanderling Way

2.2 24/502180/FULL BLUETOWN Car Parks Adjacent to Sheppey Street

2.3 24/502130/FULL SHEERNESS Sheppey Leisure Complex, Broadway

PART 5

5.1 23/503389/FULL UPCHURCH 4 Oast Cottages, Breach Lane

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5.3 23/503035/FULL OARE 8 Harty Ferry Cottages, Harty Ferry Road

5.4 23/503412/FULL NORTON Bullfinch Cottage, Lewston Street Road

5.5 23/503336/OUT LOWER HALSTOW Callum Park, Basser Hill

5.6 23/502056/OUT UPCHURCH Land adjacent to 113 Chaffes Lane

5.7 23/505549/FULL SHELDWICH Little Manor Oast, North Street, Sheldwich

5.8 23/502191/FULL BOBBING Nether Toes, Sheppey Way, Bobbing

5.9 23/503015/SUB MINSTER ON SEA Scocles Farm, Scocles Road

5.10 23/502205/FULL FAVERSHAM Stonebridge Lodge, West Street

5.11 21/500173/FULL NEWINGTON The Happy Pants Animal Sanctuary

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PLANNING COMMITTEE –

DEFERRED ITEM

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting.

DEF 1 - REFERENCE NO 22/502086/OUT		
PROPOSAL Outline application for a residential development of up to 650 units inclusive of a new community hub, landscaping measures and green infrastructure, with all matters reserved except for access.		
SITE LOCATION Land to the east of Scocles Road, Minster on Sea, Kent		
RECOMMENDATION An appeal has been submitted against non-determination of this application and it cannot now be formally determined by the Council. However, Members need to determine whether the application would have been approved if it was still before them, or on what grounds they would have refused planning permission. This will then form the basis of the Council’s case regarding the development for the purposes of the appeal.		
APPLICATION TYPE Major (Outline)		
REASON FOR REFERRAL TO COMMITTEE The resolution from the Planning Committee on 10 th October 2024 was that the application be deferred for Ward Members to meet the developers to address concerns relating to the application. The applicant has now submitted an appeal against non-determination and as such members are required to consider the decision that they would have made should the Council have been the determining authority.		
Case Officer Simon Greenwood		
WARD Sheppey Central	PARISH COUNCIL Minster-on-Sea	APPLICANT MLN (Land and Properties) Ltd AGENT Broadgrove Planning and Development
DATE REGISTERED 6 th May 2022		TARGET DATE 15 th October 2024
BACKGROUND PAPERS AND INFORMATION: Documents referenced in report are as follows: - SCP/220758/D10 Rev. E Potential Traffic Improvements at A249/A500 Roundabout SCP/220758/D09 Rev. D Potential Segregated Northbound Lane at A249/A500 Roundabout SCP/220758/D08 Rev. E Potential Segregated Southbound Lane at A249/A2500 Roundabout SCP/220758/D11 Assessment of Land Ownership Impact 03/001 Proposed Access Strategy Access Road onto Scocles Road 35m ICD Roundabout 03/002 Proposed Access Strategy Main Access onto A2500 40m ICD Roundabout 03/003 Rev. B Proposed Access Strategy Potential A249/A2500 Roundabout Improvement Option		

Transport Assessment ref. MA /VL/P21-2283/03 (April 2022)
Transport Assessment Addendum ref. SCP/220758/TAA/00 (June 2023)
Transport Assessment Addendum ref. SCP/220758/TAA/01 (December 2023)
Transport Assessment Addendum ref. SCP/220758/TAA/03 (April 2024)
Habitat Suitability Assessment ref. NGR: TQ 95268 71950 (August 2022)
Landscape and Visual Impact Assessment ref. 7839LVIA (April 2022)
Landscape and Visual Impact Assessment Addendum ref. 7839LVIA (July 2022)
Design and Access Statement (April 2022)
Landscape Strategy Plan 7839/ASP3
Planning Statement (April 2022)
Tree Survey and Preliminary Arboricultural Impact Assessment ref. 1597 (21 April 2022)
Parameters Plan BG/SRM/PP/01
Phase 1 Geo-Environmental Risk Assessment ref. AG3392-22-AO18 (March 2022)
Acoustic Assessment ref. MT/VL/P21-2283 /01 (April 2022)
Historic Environment Desk Based Assessment ref. 3381/01 (March 2022)
Preliminary Ecological Appraisal ref. 1596 (20 April 2022)
Air Quality Assessment ref. NP/VL/P21-2283/02 (April 2022)
Flood Risk Assessment and Outline Drainage Strategy ref. PGC199.

All drawings submitted

All representations received

The full suite of documents submitted pursuant to the above application are available via the link below: -

<https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RAWI21TYFRC00>

1. INTRODUCTION

- 1.1. This application was initially reported to Planning Committee on 10 October 2024, with a recommendation that permission be granted. The original Committee report is attached at Appendix A.
- 1.2. The Planning Committee resolved to defer the application for Ward Members to meet the developers to address concerns relating to the application. The applicant has since registered an appeal against the Council's non-determination of the application and as such Members are required to consider the decision that they would have made should the Council have been the determining authority.
- 1.3. Since the original committee report the National Planning Policy Framework (NPPF) has been revised. However, taking into account the changes made, it would not materially alter the original recommendation.

- 1.4. Five further neighbour objections have been received since the application was considered by the Planning Committee on 10th October 2024 raising no new matters beyond those identified within the original committee report.
- 1.5. The concerns raised by Members at the 10th October Planning Committee, as detailed within the minutes of the meeting, are set out below with an officer response in italics:
- Paragraph 4.4 of the report mentioned a Multi-use Community Hub, but this was not secured in the outline application. *The previous committee report set out at paragraph 4.4 that 'The applicant advises that The Plunkett Foundation (an independent charity specialising in community projects and business planning) would prepare a detailed business plan and undertake a community/stakeholder consultation with a view to delivering the facility. It is intended that this exercise would be undertaken within timescales to secure the capital costs for the centre through a Section 106 agreement.'* Recommended condition 4 has been amended to secure details of the Community Hub facilities as part of the phasing plan for the development.
 - had no confidence that the developer would deliver on the medical hub. *The previous committee report set out at paragraph 4.5 that 'The delivery of the hub would be subject to a 3 stage Integrated Care Board approval process. In the event that approval is not secured then the land will be safeguarded for a use delivering community benefits, such as additional affordable housing.'* The hub cannot be secured at this stage with no certainty as to the outcome of the 3 stage Integrated Care Board approval process.
 - concerned with the highway works and the issues it would cause across the Isle of Sheppey. *National Highways and KCC Highways raised no objections to the proposals in terms of impacts upon the highways network. It is acknowledged that the works to increase capacity on the highways network could have some shorter term impacts but the works will then deliver capacity benefits.*
 - the footpath at Scocles Road, Minster, was not wide enough for cyclists and there were no proposals to widen it. *This is a pedestrian footway which cannot be legally used by cyclists. A cycleway is proposed along the main spine road of the development which will run approximately parallel to Scocles Road and will accommodate north/south cycle movements associated with the development.*
 - often large coaches would use the Scocles Road junction to get to schools and this made it dangerous for pedestrians to use Scocles Road. *A footway is proposed along the main spine road of the development which will run approximately parallel to Scocles Road and will accommodate north/south pedestrian movements associated with the development. The estate roads would also provide a wider and safer alternative for larger vehicles travelling north/south whereby they could divert from Scocles Road at the junction with Thistle Hill Way and join Lower Road via the proposed new roundabout at the southern end of the site.*
 - if there was further development at Scocles Road then an additional roundabout needed to be considered. *It is anticipated that traffic associated with the development will utilise the proposed estate roads which are accessed via a roundabout at the junction with Lower Road and a roundabout at the junction with Thistle Hill Way. The*

estate roads will also provide an alternative to Scocles Road for north/south movements of vehicular traffic which is not associated with the proposed development. National Highways and KCC Highways raised no objections to the proposed highways arrangements.

- *the cycle and footpaths would need to be lit so that they could be used in the evenings. The lighting to the cycle ways and footways within the site would be secured through condition 39 (external lighting strategy). Lighting to the off-site cycle way and footway through the community woodland would be on land which is not within the applicant's control and may have biodiversity implications, including potential impacts on bats, which have not been assessed. Lighting to the path through the community woodland is a matter which can be pursued through Section 106 discussions and negotiations as part of the appeal process.*
- *there was no mention of youth clubs by Kent County Council (KCC). KCC no longer seek financial contributions towards youth club provision following a review of non-statutory services. A contribution of £41,468.00 is sought towards Integrated Children's Services and this would provide monies for youth intervention and outreach in the locality.*
- *a full Travel Plan should be secured at outline stage. Recommended condition 35 secures a detailed Travel Plan to be submitted prior to occupation.*
- *development would harm the Grade II listed Scocles Court. Harm to Scocles Court is discussed in paragraph 6.59 of the committee report, with the harm required to be balanced against the public benefits of the proposals.*
- *Kent County Council (KCC) Highways Team said that they would be happy for 300 homes to be built before the Lower Road footpath works commenced but this should be lowered to 100 homes. There are no footpath works specifically required prior to the construction of 300 dwellings. Condition 26 requires the provision of a shared footway/cycleway along Lower Road prior to the occupation of any dwelling accessed from Lower Road.*
- *it was not clear when the funding would be made available for key services and amenities such as a bus service. A contribution towards the running of a bus service would be for a minimum of 4 years and further details including commencement of the service would have been agreed through Section 106 negotiations had Members resolved to grant planning permission. The timing of the KCC infrastructure contributions would also have been agreed through Section 106 negotiations having regard to the phased delivery of the scheme.*
- *the Public Rights of Way (PROW) Officer had commented that the development would have a negative effect on the landscape. The Public Rights of Way Officer advised that the impacts on landscape and visual amenity of the wider network would be satisfactorily mitigated through the £48,925.00 contribution sought (paragraph 4.20 of committee report).*
- *open spaces, green spaces, play space, sports pitches and allotments should be secured. Recommended condition 7 would secure details of landscaping at reserved*

matters stage and has been amended to refer to the delivery of the allotments. Recommended condition 11 would secure details of a landscape strategy at reserved matters stage. Recommended condition 50 secures details of sports facilities. Recommended conditions 4 has been amended to specifically refer to the delivery of the open spaces, play spaces, sports pitches and allotments as part of the phasing plan for the development.

- *the location of the care homes was too close to the community areas of the development. This is noted, and it is also clarified that the proposal includes extra care housing (Use Class C3(b)) rather than care homes falling under Use Class C2. There would be scope to secure an amended layout at reserved matters stage and/or details of a management plan by condition.*
- *the road network was not adequate to accommodate for the development on the Isle of Sheppey. National Highways and KCC Highways have considered detailed highways modelling data and raised no objections to the proposal in terms of impacts on the highways network. The NPPF states at paragraph 116 that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.*
- *the developer should have done better with the design and communication with parish and ward councillors. As all matters are reserved except for access, the design is indicative only and there is scope to seek a development of acceptably high quality under the terms of reserved matters. It is suggested that it would be difficult to sustain an objection to an outline application where the matters of scale, layout and appearance are reserved on this ground. The request to have communicated with Councillors is noted but this does not represent planning harm that could be raised as a reason to refuse the application.*
- *it was not clear what level of funding was expected from the development as KCC had provided two different letters that conflicted each other. The letter dated 26 May 2022 stated on page 3 that the contributions sought are valid for 3 months from the date of the letter after which they may need to be recalculated due to changes in district council housing trajectories, on-going planning applications, changes in capacities and forecast rolls, projects and build costs. The contributions set out in the KCC letter dated 14 September 2023 superseded the earlier request and these figures were updated in email correspondence with the case officer. The contributions sought by KCC are detailed at paragraph 6.131 of the original committee report.*
- *all funding should be allocated to infrastructure on the Isle of Sheppey; KCC have a commissioning plan for education which identifies where school places are anticipated to be required over a 5-10 year period and which schools should be expanded and the identified schools are located on the mainland. Academy schools have to be willing to accept the funding and to expand. KCC advise that increased capacity on the mainland has the potential to increase the availability of school places on the Isle of Sheppey. KCC also advise that SEND and Waste are strategically located specialist*

services which will have to be delivered on the mainland. KCC agree that the Council can specify that the Integrated Children's Services and Adult Social Care contributions should be allocated to the Isle of Sheppey.

- *the section 106 requirement for best endeavours to provide pedestrian links was inadequate. The pedestrian links would be secured through condition 28 which requires a phasing plan and details of footway connections linking pedestrian routes within the development to Queen Anne Close and the southern boundary of Scocles Court. The Section 106 obligation would require the developer to engage with the highways authority to seek a Section 278 agreement to undertake the highways works. Best endeavours represents a higher bar than reasonable endeavours and requires a party to take all steps that a prudent, determined, and reasonable person acting in their own interest and desiring the result would take.*
- *library funding should be allocated to Minster. KCC Infrastructure have responded that allocating the monies to libraries serving the development provides flexibility to address all of the library, registration and archives services available to the new residents.*
- *not clear that EV chargers would be provided; Recommended condition 31 would have secured details of EV chargers.*
- *no solar panels were being proposed on the new homes; Recommended condition 45 would have secured details of an energy efficiency and carbon reduction measures and the measures secured could have included PV panels. The suggested condition has been amended to specifically reference renewable energy generation and is detailed at the end of this updated report.*
- *the allotments were not secured by condition so the developer may not deliver them. The committee report indicated at paragraph 6.124 that 0.36ha allotments were proposed. Recommended condition 7 would secure details of landscaping at reserved matters stage and has been amended to refer to 0.36ha of allotments. Condition 4 has been amended to secure details of the timing of the delivery of the allotments as part of a phasing plan.*
- *impact piling would increase heritage harm to Scocles Court. The Heritage Statement which accompanied the application identified that the significance of Scocles Court is largely derived from its architectural and archaeological interest, whilst SBC Heritage identified that some significance is derived from its agricultural setting. Heritage harm could therefore only conceivably occur if significant and irreparable damage or destruction of the building occurred as a result of impact piling on the development site. It is not clear from the applicant's submissions that piling is required or intended and, as such, it is not possible to conclude that the development would have an impact on heritage assets in this respect. In any case, it is possible to safeguard the heritage assets by imposing a condition to require that, if piling is proposed, details of the piling method shall be submitted to and approved in writing by the Local Planning Authority (additional recommended condition 52).*
- *condition 8 (Landscaping) should specify 10 year period for replacement of landscaping. Five years is a standard period for planning conditions requiring the*

replacement of damaged, removed, dead or diseased trees and plants. A 10 year time period could be specified but may be considered unduly onerous. Paragraph 57 of the NPPF makes clear that planning conditions should only be used where they are, inter alia, necessary and reasonable.

- *condition 24 (Highways Works) needed to be amended to read “No more than 100 dwellings...” not 300 as stated. Recommended condition 24 required that no more than 300 dwellings shall be occupied until vehicle accesses onto Scocles Road and Lower Road and a spine road connecting the two have been constructed and opened for use. KCC Highways response references detailed highways modelling data which has informed the 300 home trigger identified as appropriate for the completion of the spine road.*
- *condition 25, (Provision of footway) should not include Scocles Road. The other dwellings would have sufficient pedestrian access arrangements and, therefore, it is not considered necessary for the construction of these other dwellings to trigger the requirement to provide the specified footway. NPPF paragraph 57 requires that conditions are, inter alia, necessary, precise and reasonable. If the houses to be occupied would not require the footway on Scocles Road to facilitate pedestrian access then the proposed revised condition would not meet these tests.*
- *condition 26, (Provision of footway) should include wording to ensure it commenced from day one of the development; For similar reasons as above, it would not be necessary and reasonable to require the footway/cycleway prior to the occupation of dwellings accessed from Lower Road.*
- *the wording in condition 50 (Sports Facilities) should be “tightened-up”. Proposals for sport facilities have not yet been finalised. Paragraph 4.4 of the original committee report advised that The Plunkett Foundation (an independent charity specialising in community projects and business planning) would prepare a detailed business plan and undertake a community/stakeholder consultation with a view to delivering the multi-use community hub. It is intended that this exercise would be undertaken within timescales to secure the capital costs for the centre through a Section 106 agreement. The hub would provide outdoor sports facilities which could include a multi-use 5-a-side/sports pitch, tennis court, bowling club and allotments. It is therefore anticipated that more specific details of the sports facilities as well as the monies to deliver them would be secured through the Section 106 agreement. Condition 50 was intended to ensure that the proposed facilities accord with Sports England standards.*
- *condition 51 (Heritage Interpretation Board) should include wording that the developer would fix any harm to Scocles Court; Condition 51 is intended to secure a heritage board which would assist local residents and visitors to the area in being able to appreciate the historic function and original agricultural setting of the listed building. Any damage to Scocles Court as a result of the development would be a civil matter between the owner of Scocles Court and the developer. The proposed amendment to condition 51 would not meet the tests set out paragraph 57 of the NPPF that it conditions should be, inter alia, necessary; relevant to planning; enforceable and reasonable.*

- understood that outline applications were presented to Committee so that Members could secure the relevant details but often got lots of changes from the developers when reserved matter submissions followed. *The planning system allows for the submission of outline applications with reserved matters applications being able to be advanced in a manner that is different to what might have been shown indicatively. Outline applications such as this provide the parameters by which future reserved matters would be assessed. Conditions can be used to 'tighten up' outline consents and any assessment of the acceptability of a reserved matters submission would turn on whether the proposals are in accordance with the parameter plan approved under recommended condition 5.*
- ward members should meet with officers, KCC, developer and other relevant parties to secure improvements to the proposal. *The applicant has now appealed against the Council's non-determination of the application and it is necessary for the position of the Council to be decided upon in order to be able to respond to the appeal proceedings in a timely manner. There is no scope for any further meetings. The position of the Council should be reached on the basis of the development that has been set out within the outline application.*
- the timings of the road works and connection to the Lower Road roundabout were key and thought that further discussions were needed with KCC to identify the timing of highways works. *Recommended condition 23 secures details of off-site highways works to the A2500 Lower Road / Barton Hill Drive roundabout. Recommended condition 24 secures details of works to connect the spine road to the A2500 Lower Road. These details will be assessed in consultation with KCC Highways who will consider the implications of the timing of the works.*
- the affordable housing should be made available to Isle of Sheppey residents before it was made available to others; concerned that housing was given to people that lived out of the local area, rather than residents that needed it in the borough; *The Section 106 agreement would provide for the Council to exclusively nominate households in housing need to the affordable dwellings in accordance with the Council's Allocations Policy. Residency in the borough is a requirement to qualify for inclusion on the Council's Housing Register.*
- thought the Council should have done their own Independent Traffic assessment. *The Council instructed Advanced Transport Research to replicate the applicant's traffic surveys and instructed Stantec to review and assess the survey data. The surveys were carried out during w/c 9th December 2024. Stantec have carried out an initial review of the further traffic count evidence and provided an initial commentary advising that the traffic counts are generally lower than those provided within the applicant's Transport Assessment. The new data identified some higher queues than identified within the Transport Assessment; however, this was on a rainy day so driving behaviour dynamics need to be considered in such conditions. Furthermore, there is no evidence of a network problem of queuing and the queues were short term at junction specific points. Stantec consider that the conclusions of the Transport Assessment in terms of required mitigation would likely be unaltered in view of the further surveys. Given that the Transport Assessment including mitigation proposals*

has been identified to be sound and given that KCC Highways and National Highways raised no objections to the proposals, Stantec advise that the proposals can be considered acceptable in highways terms.

- the funding for schooling should be allocated to schools on the Isle of Sheppey rather than grammar schools in Sittingbourne. *This matter is addressed above.*
- there were too many aspects of this proposal that were not yet resolved therefore it would be hard to agree it at this stage. *As above, the application has been made in outline with all matters reserved apart from access. Further detail would come forward as part of future reserved matters applications, where details relating to scale, appearance, landscaping and layout would be subject to further scrutiny.*
- it was important for the developer to meet with Parish Councils and the Ward Members to secure improvements to the scheme. *The applicant has now appealed against the Council's non-determination of the application. The position of the Council should be reached on the basis of the development that has been set out within the outline application.*
- the Scocles Road proposals could be improved to better address impacts on the road network. *It is intended that highways movements associated with the development will be routed through the development rather than Scocles Road. KCC as highways authority did not raise objections in relation to the Scocles Road proposals.*
- the Ward Members and Parish Councils should have been able to have input into the proposals before it was deferred to the Committee. *This view is noted but should not be determinative in the Council now reaching its position in respect of the proposed development which should be based on the details that have been submitted with the outline application.*
- the Housing Association's energy targets were not often that high so it would be good to see a requirement for the new homes to be given a Band B Energy Performance Certificate (EPC) rating. *Recommended condition 45 required details at reserved matters stage of materials and measures to increase energy efficiency and thermal performance and reduce carbon emissions and construction waste. The details are required to demonstrate that at least a 50% reduction in Dwelling Emission Rate compared to the Target Emission Rates as required under Part L1A of the Building Regulations 2013 (as amended) will be achieved.*
- the provision of the bus services needed clarifying. *Paragraph 6.107 of the committee report noted that preferred option involving a new local bus service with a route from the development to Tesco in Sheerness with a timetable aligned with train services to and from Sheerness Railway Station. Since the previous Planning Committee meeting, no further information pertaining to the bus services is available. A mechanism to secure a suitable bus service to serve the development is referred to in paragraph 6.107 of the committee report and will be discussed as part of the Section 106 negotiations through the appeal process.*
- there was not enough infrastructure on the Isle of Sheppey, and it needed to be clear in the Local Plan on how developers could deliver infrastructure to support new

development. *The impacts of the proposals on infrastructure are discussed in the committee report. The response received from KCC Infrastructure indicated that the financial contributions requested would be sufficient to mitigate the impacts of the development.*

- the developer needed to provide further clarity with regards to the cycle pathway and youth club provisions. *These points are addressed above.*

CONCLUSION

- 1.6. Having regard to the reasons for deferral and the officer responses set out above, it is considered that the conclusions of the officer report remain valid, and it is recommended that members resolve that they would have granted planning permission subject to conditions (as amended below) and the prior completion of a Section 106 legal agreement.

Amended conditions.

4. Phasing

No development shall take place until a Phasing Plan, which shall include justification for the proposed Phases, demonstrate the timescale for the delivery of the development and include the order of the delivery of the proposed phases, has been submitted to and approved in writing by the local planning authority. The Phasing Plan shall include details of the delivery of any Community Hub facilities falling within use Classes E(d), E(e), E(f), F.1 (a) and F.2(b). The phasing plan shall also include details of the delivery of the allotments and other open space including play, parks and gardens, natural/semi-natural greenspace, outdoor sport, amenity greenspace and provision for children and young people. The phasing of the development shall not be carried out otherwise than in accordance with the approved plan.

All reserved matters submissions shall be in accordance with the Phasing Plan as approved by the Local Planning Authority, unless otherwise agreed with the Local Planning Authority. Any references to a Phase of the development within this permission shall be taken to be a reference to phases as identified within the Phasing Plan submitted under this condition.

Reason: To ensure the development proceeds in a satisfactory manner. The objectives and purposes of this condition are such that it is required to be complied with before commencement. As such, those objectives and purposes would not be met if expressed other than as a pre-commencement condition.

7. Landscaping

Any reserved matters application(s) which covers the matter of 'Landscaping' shall include:

- Plans, drawings, sections, and specifications to explain full details of the hard and soft landscaping treatment and works including: planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity, where possible), plant sizes, numbers and densities where appropriate, materials (size, type and colour), proposed drainage arrangements, children's play equipment, street furniture, lighting columns, private and communal areas, opens spaces, edges, boundary treatments, public rights of way and roads;

- Tree planting details (including street trees and hedge rows) and specification of all planting in hard and soft landscaped areas, to include provision for advanced planting to the northern and southern boundary of the site.
- The open space details shall demonstrate that there will be no Sustainable Urban Drainage Systems located within private gardens or play areas.
- Details of the programme for implementing and completing the planting.
- An Arboricultural Method Statement produced in accordance with BS5837.
- A Tree Protection Plan showing trees that would be retained and the arrangement of temporary protection measures that would be installed prior to the commencement of development.
- A methodology for any special construction that is required to ensure the success of proposed tree retention.
- A detail for any temporary construction measures, products or construction methods that are specified.
- Details of a proposed watching brief, monitoring or reporting.
- Significant landscaping provided within the core of the site and internal streets and roads are tree lined.
- Details of 0.36ha of allotments.

Reason: In order that the Reserved Matters Applications can be properly considered and assessed, in the interests of proper planning.

45. Energy

For each relevant phase, the details submitted pursuant to condition (1) (the reserved matters) shall include details of renewable energy generation, the materials and measures to be used to increase energy efficiency and thermal performance and reduce carbon emissions and construction waste shall be submitted to and approved in writing by the Local Planning Authority.

The details shall demonstrate that at least a 50% reduction in Dwelling Emission Rate compared to the Target Emission Rates as required under Part L1A of the Building Regulations 2013 (as amended) will be achieved.

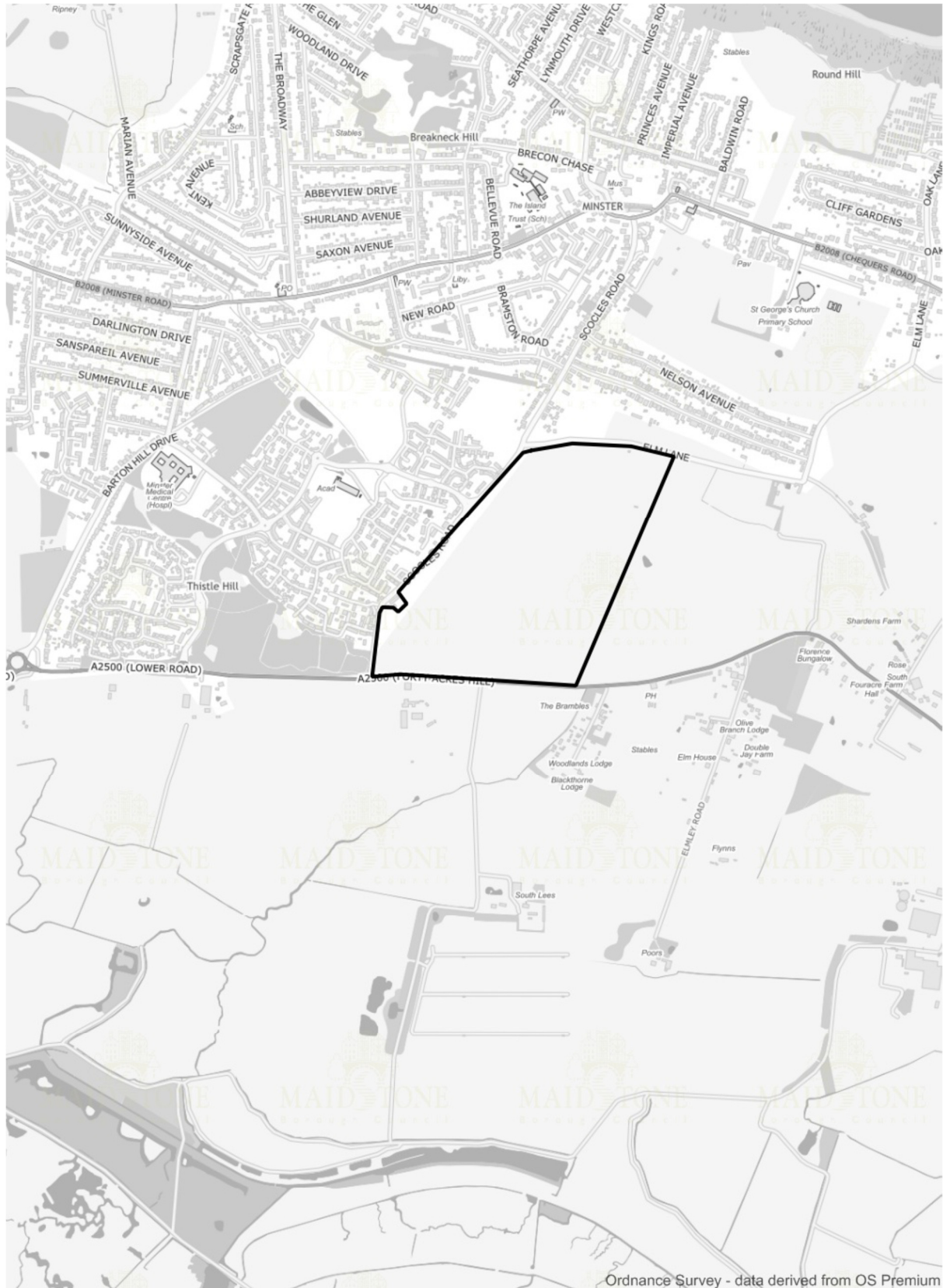
The development shall thereafter be carried out in accordance with the approved details.

Reason: In the interest of promoting energy efficiency and sustainable development.

52. Piling Method Statement

Prior to undertaking any piling works a Piling Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The Statement shall consider the impact of the piling works on the Grade II listed Scocles Court. The piling works shall be undertaken strictly in accordance with the approved method statement.

Reason: In order to assess and mitigate the impact of any piling works on the Grade II listed Scocles Court.



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REFERENCE NO 22/502086/OUT		
PROPOSAL Outline application for a residential development of up to 650 units inclusive of a new community hub, landscaping measures and green infrastructure, with all matters reserved except for access.		
SITE LOCATION Land to the east of Scocles Road, Minster on Sea, Kent		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions and the completion of a Section 106 agreement as set out in the report, with further delegation to the Head of Planning / Head of Legal Services (as appropriate) to negotiate the precise wording of conditions, including adding or amending such conditions and precise Heads of Terms as may be consequently necessary and appropriate.		
APPLICATION TYPE Major (Outline)		
REASON FOR REFERRAL TO COMMITTEE Call-in by Councillors Harrison and Jayes and objections from Minster Parish Council and Eastchurch Parish Council		
Case Officer Simon Greenwood		
WARD Sheppey Central	PARISH COUNCIL Minster-on-Sea	APPLICANT MLN (Land and Properties) Ltd AGENT Broadgrove Planning and Development
DATE REGISTERED 6 th May 2022	TARGET DATE 15 th October 2024	
BACKGROUND PAPERS AND INFORMATION: Documents referenced in report are as follows: - SCP/220758/D10 Rev. E Potential Traffic Improvements at A249/A500 Roundabout SCP/220758/D09 Rev. D Potential Segregated Northbound Lane at A249/A500 Roundabout SCP/220758/D08 Rev. E Potential Segregated Southbound Lane at A249/A2500 Roundabout SCP/220758/D11 Assessment of Land Ownership Impact 03/001 Proposed Access Strategy Access Road onto Scocles Road 35m ICD Roundabout 03/002 Proposed Access Strategy Main Access onto A2500 40m ICD Roundabout 03/003 Rev. B Proposed Access Strategy Potential A249/A2500 Roundabout Improvement Option		

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Transport Assessment ref. MA /VL/P21-2283/03 (April 2022)
Transport Assessment Addendum ref. SCP/220758/TAA/00 (June 2023)
Transport Assessment Addendum ref. SCP/220758/TAA/01 (December 2023)
Transport Assessment Addendum ref. SCP/220758/TAA/03 (April 2024)
Habitat Suitability Assessment ref. NGR: TQ 95268 71950 (August 2022)
Landscape and Visual Impact Assessment ref. 7839LVIA (April 2022)
Landscape and Visual Impact Assessment Addendum ref. 7839LVIA (July 2022)
Design and Access Statement (April 2022)
Landscape Strategy Plan 7839/ASP3
Planning Statement (April 2022)
Tree Survey and Preliminary Arboricultural Impact Assessment ref. 1597 (21 April 2022)
Parameters Plan BG/SRM/PP/01
Phase 1 Geo-Environmental Risk Assessment ref. AG3392-22-AO18 (March 2022)
Acoustic Assessment ref. MT/VL/P21-2283 /01 (April 2022)
Historic Environment Desk Based Assessment ref. 3381/01 (March 2022)
Preliminary Ecological Appraisal ref. 1596 (20 April 2022)
Air Quality Assessment ref. NP/VL/P21-2283/02 (April 2022)
Flood Risk Assessment and Outline Drainage Strategy ref. PGC199.

All drawings submitted

All representations received

The full suite of documents submitted pursuant to the above application are available via the link below: -

<https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RAWI21TYFRC00>

SITE LOCATION AND DESCRIPTION

- 1.1. The approx. 31.06ha site presently comprises undeveloped greenfield land in agricultural use with a thin tree line and hedgerow around the site. The land undulates from northwest to southeast, dipping from c. 20m to c. 9m at its highest and lowest points.
- 1.2. The site fronts Elm Lane to the north; agricultural fields to the east; Lower Road to the south; and Scocles Road to the west. The main settlement of Minster is located to the north and west, whilst the site is mainly surrounded by open countryside/agricultural land and sporadic development to the south and east.

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- 1.3. The housing to the west of Scocles Road forms part of the Thistle Hill development which has been built out over recent years and is allocated under Local Plan Policy A 7. Residential development is currently taking place within the area to the north at the junction of Scocles Road and Elm Lane which is allocated under Local Plan Policy A 21.3.
- 1.4. There is a primary school, small supermarket, community centre, doctor's surgery and pharmacy and a community hospital within the Thistle Hill development to the west and within a reasonable walking distance of the site. Sheerness town centre which provides a broader range of shops, amenities and services is approx. 6.25km to the north-west.
- 1.5. No public footpaths, bridleways or rights of way cross the site. Public Rights of Way (PRoW) ZS9 and ZS10 provide routes from the western boundary of the site through the Thistle Hill development. PRoW ZS6 provides an approx. 400m northbound route from the northern boundary of the site which links to Scocles Road. PRoW ZS7 provides a route through agricultural land parallel to the eastern boundary of the site. The site is visible from PRoWs ZS5 and ZS8 which are located further to the east and north-east of the site.
- 1.6. The Grade II listed Scocles Court is located to the west of the site on the opposite side of Scocles Road.
- 1.7. The site is classified as Grade 3 (good to moderate) agricultural land on Natural England's Agricultural Land Classification Map.
- 1.8. The site falls entirely within Flood Zone 1 where a low probability of flooding from rivers and the sea is anticipated.
- 1.9. The site is not subject to a landscape designation nor is it located in an Important Local Countryside Gap.

PLANNING HISTORY

- 2.1. There is no relevant planning history relating to the application site.

EIA Screening Opinion

- 2.2. An Environmental Impact Assessment (EIA) Screening Opinion for this planning application was provided in December 2023 under application ref. 22/502296/ENVSCR. The screening opinion advised that an EIA is not required for the proposed development. The proposal constitutes Schedule 2 development under Regulation 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The development would comprise 'urban development' and be located on a site of more than 1 hectare in size. Due to the scale and nature of the proposed development it is unlikely to give rise to significant environmental effects that would require an EIA. Impacts of the development can be satisfactorily addressed

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through the technical reports submitted in the formal planning application ref. 22/502086/OUT. The proposal is not therefore considered to represent EIA development.

Nearby Sites

- 2.3. An application for outline planning permission was refused and dismissed at appeal in October 2022 for residential development for up to 100 dwellings at land west of Elm Lane, Minster on Sea (LPA ref. 20/504408/OUT; PINS ref. APP/V2255/W/22/3298959). The inspector applied the 'tilted balance' in accordance with paragraph 11 d) of the NPPF but identified significant harm to the character and appearance of the area which was not outweighed by the benefits of the scheme, including the delivery of new housing.
- 2.4. Outline planning permission was granted at appeal in January 2024 for residential development for up to 44 dwellings at land north of Elm Lane, Minster on Sea (LPA ref. 21/503124/OUT; PINS ref. APP/V2255/W/22/3308462). The inspector applied the 'tilted balance' in accordance with paragraph 11 d) and determined that the benefits of the scheme, including the delivery of new housing, outweighed the limited harm arising from conflict with the development plan which included slight harm to the character and appearance of the area.
- 2.5. Up to 700 dwellings and supporting infrastructure were granted outline planning permission at appeal in March 2020 at land west of Barton Hill Drive, Minster on Sea (LPA ref. 18/503135/OUT; PINS ref. APP/V2255/W/19/3238171).
- 2.6. 62 dwellings and supporting infrastructure were granted outline planning permission in August 2018 at the Slips, Scocles Road, Minster on Sea (LPA ref. 16/508117/OUT).
- 2.7. Up to 97 dwellings and supporting infrastructure were granted outline planning permission in April 2018 at land north of Plover Road, Minster on Sea (LPA ref. 15/507059/OUT).
- 2.8. Up to 431 dwellings and supporting infrastructure were granted outline planning permission in October 2017 at land at Harps Farm Parcels D, E, F and G, Minster on Sea (LPA ref. SW/13/1455).
- 2.9. Reserved matters have subsequently been approved in relation to the above outline planning consents.

Background - SHLAA call for sites and Local Plan process a

- 3.1. The application site was promoted through the Local Plan (2017) process for allocation for development to meet the borough's housing needs. A Landscape Statement was prepared in December 2016 by Huskisson Brown Associates. This Statement informed the Local Plan Examination in response to representations from the application site promoter following consultation on the Main Modifications to the Local

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Plan. The application site had been identified for omission from the Local Plan allocations for housing and the Statement provided a comparison with the Council's preferred alternative site at Land West of Barton Hill Drive. The report concluded as follows in terms of the landscape impact of the Masterplan development proposed at the time:

'Overall it is not considered that the proposed development on the site can be easily mitigated, bearing in mind the site's largely rural, open character and how it is perceived in relation to the wider, open countryside, and its visually exposed landform. In particular the negative visual impact of the development on the overlooking views from the rising landform to the north of the site looking across the wider undeveloped open marshland would be permanent and could not be fully mitigated. Planting of significant woodland areas to provide screening could be out of character in this open landscape. Due to its size and scale, even taking account of the proposed mitigation measures, it is not considered that the proposed development would represent a sensitive urban extension, appropriate to the local context of Minster.'

3.2. The site was submitted to the Council as a Strategic Housing Land Availability Assessment (SHLAA) submission under the 'call for sites' exercise. In the SHLAA, the site was considered to be in a relatively sustainable location in view of access to services and facilities in the wider locality and opportunities for sustainable travel.

3.3. The Council's Local Plan Panel considered a Local Plan Review report on site selection for housing allocations on 29 October 2020. The report acknowledged that the site was assessed as suitable and deliverable in the SHLAA and noted that peak time congestion on Lower Road and the setting of the Grade II listed Scocles Court would need to be addressed. In terms of the landscape impacts and conclusion the report recommended as follows:

'The site is in an area of medium landscape sensitivity but is visually prominent due to the land levels that raise upwards to the north. Development in this location would punch into the open countryside beyond Scocles Road that already provides a strong physical boundary to the town...Overall, the balance of this site falls on the impacts it would have on the local landscape character of the area and traffic impacts on the Lower Road. It should not be progressed through the LPR.'

3.4. The recommendation was accepted by the Local Plan Panel.

3.5. In response to the identified landscape constraints the proposal has been prepared as a landscape led scheme which seeks to mitigate and address the landscape impacts identified through the Local Plan site allocations process. The proposed quantum of development (650 units) is consistent with the capacity identified in the SHLAA.

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PROPOSED DEVELOPMENT-

- 4.1. Outline planning permission is sought for the erection of up to 650 residential dwellings. 41.5% (270 units) of the units would be provided as affordable dwellings. The application seeks outline permission therefore the proposed unit mix could be subject to changes at reserved matters stage. The currently proposed indicative unit mix is as follows:

Tenure	1 bed flats	1 bed bungalows	2 bed flats	2 bed houses/ bungalows	3 bed houses	4 bed houses	Total
Market	28	0	0	138	160	54	380
Affordable (social rent)	0	0	0	28	50	22	100
Affordable (extra care social rent)	54	24	6	6	0	0	90
Affordable (shared ownership)	0	0	0	40	30	10	80
Total	82	24	6	212	240	86	650

- 4.2. The application is accompanied by an indicative Masterplan which details detached and semi-detached housing throughout the site with some larger blocks to the centre and west of the site. The applicant advises that the maximum height of buildings within the development will be three storeys.
- 4.3. Appearance is a reserved matter; however, the application advises that the appearance of the proposed development will be informed by the existing character of Minster on Sea and the wider residential area. The Design and Access Statement identifies indicative materials including grey and terracotta roofs, and red, brown and buff bricks. Indicative architectural features include hipped roofs, timber cladding, hanging tiles, bay windows and pillared porches.
- 4.4. A multi-use Community Hub is proposed close to the centre of the site. The applicant advises that The Plunkett Foundation (an independent charity specialising in community projects and business planning) would prepare a detailed business plan and undertake a community/stakeholder consultation with a view to delivering the facility. It is intended that this exercise would be undertaken within timescales to secure the capital costs for the centre through a Section 106 agreement. The hub would provide indoor and outdoor spaces to support social, recreational, sporting, educational and economic uses. The outdoor facilities could include a multi-use 5-a-side/sports pitch, tennis court, bowling club and allotments.
- 4.5. A medical hub is also proposed which could comprise a combined doctor's surgery and pharmacy. The delivery of the hub would be subject to a 3 stage Integrated Care Board approval process. In the event that approval is not secured then the land will be

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safeguarded for a use delivering community benefits, such as additional affordable housing.

- 4.6. The application advises that the scheme is 'landscape led' and in this regard is informed by a landscape assessment of the site and its surrounding context. The proposal incorporates a substantial soft landscape buffer along the eastern and southern boundaries of the site to mitigate landscape impacts as well as tree planting and soft landscaping throughout the site which is intended to better integrate the development with the wider landscape.
- 4.7. The application seeks detailed approval of access arrangements and there would be two vehicular accesses into the site. The primary access would be via a new three-arm roundabout onto the A2500 located approximately 200m to the east of the Scocles Road/A2500 junction which would require a localised realignment of the A2500 approximately 25m northwards. The second access would be provided from a new arm at the Thistle Hill Way/Scocles Road roundabout. A spine road would run north-south through the site. Off-site highways improvement works are proposed to increase capacity along Lower Road.
- 4.8. Footways/cycleways would be provided to link the development to the built-up area of Thistle Hill to the west of Scocles Road. The applicant has also agreed to fund a shared use footway/cycleway from the junction of Lower Road and Thistle Hill Way through the community woodland to the junction of Lower Road and Scocles Road. A new bus service is proposed with a route between the application site and Tesco in Sheerness.
- 4.9. Project Delivery
- 4.10. The applicant advises that it is intended to deliver the scheme at an accelerated rate which would increase the Council's 5-year housing land supply. The applicant intends to submit a reserved matters application for the first phase of the development in a timely manner and commence works shortly after approval of these reserved matters. Accordingly, conditions 2 and 3 require the submission of the first reserved matters application within 12 months of a grant of outline planning permission and commencement of development within 12 months of approval of the first phase reserved matters. The first phase of development will include the highways access, spine roads, drainage infrastructure and all of the affordable housing. The extra care housing will be delivered by Housing 21 (a registered provider specialising in extra care housing) whilst the social rented and shared ownership housing will be delivered by Moat Housing Association. It is intended that all of the affordable housing will be delivered within 3 years from reserved matters approval. The market housing will be delivered in parcels by small to medium sized developers which is intended to provide faster delivery than the controlled approach which could be expected of a volume housebuilder.

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4.11. CONSULTATION

4.12. One round of consultation has been undertaken, during which letters were sent to neighbouring occupiers; a notice was displayed at the application site and the application was advertised in the local newspaper. Full details of representations are available online.

4.13. 156 letters of representation were received in relation to the consultation. Concerns/ comments were raised in relation to the following matters: -

Comment	Report reference
Harm to landscape, in particular due to prominence of site; development would be visible from low lying marshland to the south up towards Minster Abbey and historic core of Minster; dense tree belt landscape screening is not characteristic of the area; landscape screening will take a long time to mature and mitigate impact of proposals.	Paras. 6.34-6.53
Loss of green space/countryside; harm to rural character; loss of arable land; developer hasn't established grade of agricultural land; application does not consider availability of lower grade agricultural land to meet housing need	Paras. 6.10-6.13 and 6.34-6.53
Proposal is contrary to development plan policies including Local Plan Settlement strategy (policy ST 3); Scocles Road currently forms clear edge to the built-up area; site functions as a countryside gap between settlements; site was previously dismissed as unsuitable for residential development.	Paras. 1.9, 6.5-6.8 and 6.165-6.186
Overdevelopment; scheme will be built to the maximum density specified in the application	Paras. 6.66-6.70
Development should take place on brownfield sites; there are windfall sites on the Island which can accommodate housing need; precedent for further development in the locality.	Paras. 6.5-6.8 and 6.165-6.186
Island / Minster on Sea have already accommodated a considerable amount of residential development over recent years, including at Thistle Hill; there are more suitable sites to accommodate housing need on the mainland.	Paras. 6.5-6.8 and 6.165-6.186
Increased pressure on inadequate infrastructure and services including roads, health facilities and services, schools, nurseries, public transport, shops and amenities, sewage/drainage,	Paras. 6.105-6.112, 6.128-6.131, 6.163

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electricity, water, telecommunications, refuse and recycling facilities; development will add to pressure which will arise from already consented housing not yet built; lack of community infrastructure; proposed community infrastructure, including doctor's surgery, will not be delivered.	
Southern Water have declared the region a 'water stressed area'. Sewage discharges into sea as a result of lack of infrastructure investment.	Paras. 6.163
Lack of youth facilities and increased youth population could result in increased anti-social behaviour; Increased crime; lack of police presence on the Island; increased social deprivation.	Paras. 6.128-6.135
Business floorspace should be prioritised over housing; inadequate job opportunities on the Island; development would not deliver economic benefits; development does not support tourism and culture	Paras. 6.5-6.8 and 6.165-6.186
Increased traffic and congestion; Scocles Road is a narrow country lane and cannot adequately serve the proposed development; traffic issues impact emergency vehicles; traffic is particularly bad at peak hours and during holiday season; traffic impacts emergency services vehicles; traffic surveys should have been undertaken during holiday season; highways modelling does not consider cumulative impacts of planned developments including prison extension; Covid was still impacting vehicular movements when traffic surveys were undertaken; highways modelling is flawed and proposed highways improvements are unsuitable and will not mitigate impact of this and other developments; site is not sustainably located and occupants will be car dependent; cycle paths will not be used, particularly in winter; inadequate pedestrian and cycling infrastructure to serve development; rail service from Island is inadequate; bus services are fragmented; proposed bus service could be withdrawn; Travel Plan should be provided; impacts from construction traffic.	Paras. 6.100-6.112

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Detrimental impact on highway and pedestrian safety, in particular on Lower Road and Scocles Road; no pavement or cycle lane on Scocles Road and Lower Road.	Paras. 6.100-6.112
Housing is not required to meet local need; housing will accommodate London families; development will accommodate social housing needs of London boroughs and will increase deprivation; application does not demonstrate how it will meet local need.	Paras. 6.14-6.28
Swale has demonstrated a 5 year housing land supply; development of site was previously considered and rejected, on grounds including landscape harm, through the Local Plan process; harm from development is not outweighed by lack of a 5 year housing land supply	Paras. 6.5-6.8 and 6.165-6.186
Loss of wildlife and wildlife habitat; impact on Ramsar site and Special Protection Areas; harm to protected species; inadequate ecological surveys have been carried out and their findings are questioned; records of great crested newst, reptiles, bats, water vole and various bird species in the area Habitat Suitability Assessment is inadequate; harm to ecology and biodiversity; loss of hedgerows; inadequate measures to improve ecology and biodiversity.	Paras. 6.76-6.85
Increased noise and disturbance; increased litter; increased air pollution; increased light pollution.	Paras. 6.147-6.153
Loss of privacy/overlooking at nearby dwellings	Para. 6.148
Increased flood risk, particularly with global warming; increased surface water run off from hard surfaces.	Paras. 6.136-6.142
Development will not be energy efficient and does not propose measures to address climate change	Paras. 6.154-6.157
Harm to Grade II listed Scocles Court; disagreement with Heritage Assessment conclusions; harm to agricultural character of site which contributes to an understanding of the function of Scocles Court as a farmhouse.	Paras. 6.54-6.63
EIA should have been required.	Para. 2.2
Reiterate parish council objection (detailed below).	See below

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Land west of Elm Lane appeal decision is relevant, particularly in relation to landscape and character impacts.	Paras. 6.34-6.53
Planning and decision making process is flawed.	Paras. 6.3-6.4
Inadequate community consultation.	Paras. 5.1-5.2

4.28. Minster Parish Council and Eastchurch Parish Council both objected to the application on the following grounds (both Councils made the same comments): -

Comment	Report reference/ clarification
Minster has seen substantial residential development in recent years including at Thistle Hill where approx. 40% of the site remains available for development. "Windfall" sites in the parish could be developed to accommodate housing need.	Paras. 6.5-6.8 and 6.165-6.186
Proposal is contrary to Local Plan Policy ST 3 which sets out the Swale settlement strategy and seeks to protect and enhance the quality, character and amenity value of the countryside, as was made clear through the Council's pre-application advice.	Paras. 6.5-6.8, 6.34-6.53 and 6.165-6.186
Site acts as part of a crucial Countryside Gap between East Minster and Eastchurch. Proposal would undermine the purpose of this gap which is to maintain the separate identities and characters of settlements, safeguard open and undeveloped areas; and prevent encroachment of built development with changes to the rural open character of the area. Development would involve the loss of open countryside, to the detriment of a much-loved landscape, precious rural amenity and residents' well-being. Release of the site would make containment difficult and development pressures further to the east difficult to resist.	Paras. 1.9, 6.5-6.8, 6.34-6.53 and 6.165-6.186
Landscape impacts harmful to the character of the area as scheme will be visible in views from the low-lying marshland to the south towards Minster Abbey and the historic core of Minster.	Paras. 6.34-6.53
Displacement of prolific wildlife and additional pressure on Sheppey's natural habitats.	Paras. 6.76-6.85
Site is not sustainably located in relation to services including GP Surgery and services offered at Queenborough and Sheerness.	Paras. 1.4, 6.104-6.108

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Pedestrian links to the site are non-existent. Proposal is contrary to Policy DM 14.	
Increased pressure on existing utilities	Paras. 6.163-6.164
Ecological harm and impact on archaeological potential of the site.	Paras. 6.64-6.66 and 6.76-6.87
Inadequate infrastructure to serve the development detrimental to the existing local population. Urban sprawl, increased traffic and pressure on schools, medical facilities and other public services and water supply.	Paras. 6.100-6.112, 6.128-6.131 and 6.163-6.164
Adverse impact on community cohesion, particularly given high levels of social deprivation on Sheppey and increased pressure on public services from additional population.	Paras. 6.128-6.131
Transport Assessment is misleading as local highway network is already critically overloaded and Scocles Road has poor visibility on dangerous bends, narrow 'pinch points', and inadequate speed restrictions which result in queues and tailbacks. Development will result in unacceptable additional pressures.	Paras. 6.100-6.112
Encouraging pedestrians and cyclists onto the A2500 Lower Road / Scocles Road poses the constant risk of uncontrolled collision with vehicles using those roads.	Paras. 6.100-6.112
A249 has far exceeded its design capacity, and is critically congested. National Highways have restricted developments pending improvements are made to M2 Junction 5 and the A249 Grovehurst Junction as new development is generating additional traffic.	Paras. 6.100-6.112
Application specifies maximum unit numbers and will 'lock in' the maximum density.	Paras. 6.67-6.70
Council's consultation document considered this site and disregarded it as being unsustainable.	Paras. 6.5-6.8 and 6.165-6.186

4.29. The Countryside Charity (Kent) objected to the proposal on the following grounds:

Comment	Report reference/ clarification
Site is not allocated for housing development and proposal is contrary to the Local Plan, in particular Policy ST3 (Settlement Strategy), directing development to existing defined settlements and allocated sites and restricting development in the countryside.	Paras. 6.5-6.8 and 6.165-6.186

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Site was considered under the 'call for sites' and was rejected, including on landscape grounds. It was not included within the now withdrawn Regulation 19 version of the emerging plan. Council clearly consider there are sufficient reasonable alternatives to the application site.	Paras. 6.5-6.8 and 6.165-6.186
Whilst the tilted balance would be applied the arguments regarding weight to be given to housing need are overstated - applicant is a site promoter and not a housebuilder. No certainty that site would be developed any time soon given potential local market saturation and slowdown in housebuilding. Affordable housing quantum could be negotiated down.	Paras. 4.9, 6.5-6.8
Council's previous objection to this site on landscape terms is noted and supported. Site is visually prominent from the lower lying marshes to the south and it provides a rural setting to the historic core of Minster. Agree that there is moderate-high sensitivity to further residential development.	Paras. 6.34-6.53
Agree and support Minster Parish Council's observations that site acts as part of a crucial Countryside Gap.	Paras. 1.9, 6.5-6.8, 6.34-6.53 and 6.165-6.186
Application downplays impact upon nearby heritage assets, in particular setting of Scocles Court.	Paras. 6.54-6.63
KCC Highways object on the basis that the application has not addressed the traffic impact on the local network with unacceptable impacts on the A2500 and A249 corridors.	Paras. 6.100-6.112
No community facilities to the south and the existing and proposed highway network to the north and west have areas of incomplete footway - KCC considered there is not a safe and suitable access from the site.	Paras. 1.4 and 6.100-6.112
National Highways raise concerns with updated Transport Assessment.	Para. 6.109
Ecological Assessment has been conducted outside the optimal time to survey for botanical species therefore the findings cannot be relied upon.	Para. 6.82
Bat activity not surveyed at correct time of year.	Para. 6.82
SSSI, SPA and Ramsar under serious threat of recreational pressure and disturbance from	Para. 6.91-6.99

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additional population with dogs visiting protected areas supporting vulnerable ground nesting birds, along with additional cat predation.	
Natural England commented that this development could have potential significant effects on Ramsar site and SPAs. Development is unacceptably close to these designated sites having regard to cumulative effect of developments underway nearby. Application plays down site's significance for wildlife value.	Para. 6.84
Outside lighting will negatively impact area and surrounding protected sites. Light or sound will disrupt bird behaviour including migration. Artificial light at night (ALAN) disrupts reptiles, invertebrates, moths, bats, amphibians and other flora and fauna.	Condition 38
Ecological Assessment doesn't consider impacts on reptiles from cat predation, recreational pressure/disturbance, ALAN and potential mowing and spraying.	Para. 6.82
Natural England advise Habitat Suitability Assessment (HSA) should demonstrate that the site and surrounding land is unsuitable for SPA/Ramsar waterbirds which has not been done. Species-specific surveys should be undertaken to demonstrate that site is not functionally linked land. Assertion that the site is well removed from the majority of the area of the coastal designations is not accepted. Brent Geese will often travel short distances inland to graze.	Para. 6.84
Surveys for dormouse, bat, migratory bird, nesting bird, wintering bird, amphibian, great crested newt, water vole, otter, beaver, reptile, botanical and badger should be undertaken.	Paras. 6.82-6.83

REPRESENTATIONS

- 4.2. **SBC Heritage:** - Heritage Statement understates the degree of harm to the significance of the Grade II listed Scocles Court and it is considered to result in a medium degree of less than substantial harm. Meaningful mitigation would involve a significant area of undeveloped open space on the application site. Further mitigation against the harm could be achieved through interpretation measures to promote appreciation of the historic function and original agricultural setting of the listed

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building. The identified harm should be balanced against the public benefits of the scheme in line with paragraph 208 of the NPPF.

- 4.3. **SBC Urban Design:** - No objections raised in design terms. It is important that design quality is integrated throughout all planning processes and conditions are suggested to secure the following and ensure the development delivers high quality design and placemaking:
- A detailed phasing plan;
 - Number of units limited to 650 units;
 - Site wide detailed Masterplan and Design Code which will be subject to review by a Design Review Panel;
 - Reserved matters application should be accompanied by a Masterplan and Design Code Compliance Statement;
 - Details/samples of materials for the external surfaces of the buildings;
 - Details of landscaping;
 - Replacement of any trees and shrubs which die, become diseased or are removed within 5 years from the completion of the development;
 - Details of site levels and finished floor levels for buildings;
 - A detailed lighting strategy.
- 4.4. **KCC Archaeology:** - No objections raised subject to a condition securing an archaeological evaluation with subsequent mitigation.
- 4.5. **Mid Kent Environmental Health:** - No objections raised in terms of air quality, noise and contaminated land subject to conditions securing the following:
- A further noise assessment to identify properties that require noise mitigation measures and to secure those measures;
 - A scheme of contamination remediation in the event that contamination is identified during construction works;
 - A Construction Method Statement to mitigate air quality impacts during the construction stage;
 - Restrictions on hours of construction activity to 0730-1800 Monday to Friday and 0800-1300 on Saturdays;
 - Piling works only to take place 0900-1700 hours Mondays to Fridays.
- 4.6. **SBC Housing:** - Strong support for the proposed affordable housing in view of the high level of need on the Island arising from the 0% planning policy requirement in place.
- 4.7. **KCC Ecology:** - Sufficient information has been provided and no objections are raised subject to conditions to secure an Ecological Mitigation and Management Plan and a Landscape and Ecological Management Plan.

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- 4.8. **SBC Green Spaces:**- No objections raised in respect of open space, sport and recreation subject to securing on-site formal sports facilities which meet Sport England requirements.
- 4.9. **Kent Wildlife Trust:**- Concerns are raised regarding the adequacy of the HSA and the Preliminary Ecological Assessment (PEA) and the adequacy of measures to mitigate impacts on designated sites and protected species.
- Submission does not indicate biodiversity enhancement and the development should ensure that impacts to protected and priority species habitat are mitigated, and that habitat creation and enhancement is realistic and deliverable. Any habitats created to achieve a net gain which are situated within areas provided for residential amenity would be subject to recreational and site management pressures therefore further details on habitat creation and enhancement measures and site management should be provided. *Officer note: These matters will be addressed through the Biodiversity Enhancement Plan which will be secured by condition.*
- 4.10. **KCC SUDs:** - No objections raised subject to conditions to secure details of surface water drainage scheme to accommodate all rainfall durations and intensities up to climate change adjusted critical 100 year storm, including details of maintenance.
- 4.11. **National Highways:** - No objections raised subject to conditions securing the following:
- Details of a 'Monitor and Manage Mitigation Strategy';
 - Completion of improvement works to the A249/A2500 roundabout prior to the construction of the 326th dwelling;
 - Approval of a full Travel Plan;
 - Construction Management Plan.
- 4.12. **KCC Minerals:**- No objections raised.
- 4.13. **KCC Highways:** - No objections raised. The applicant has demonstrated that traffic associated with the proposed development can be accommodated on the highway network, and where there would be areas of congestion its impact can also be mitigated to provide overall betterment.
- 4.14. National Highways have requested a 'monitor and manage' condition to inform the delivery of highways improvements. Provided KCC is included in the review group to consider the impact on the local highway network and input into the approval, this is acceptable.
- 4.15. Walking and cycling routes to link the development to the wider area and its amenities can be achieved and delivery of these will need to be coordinated with the phasing of the development.

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- 4.16. The proposed roundabouts onto Scocles Road and Lower Road are considered suitable for access to the development, though use of the Scocles Road roundabout should be restricted to serving a maximum of 300 dwellings only until the connection has been made through to the proposed Lower Road roundabout.
- 4.17. A new bus service can be provided to cater for the development and enhance the offer to existing communities, and the developer would be expected to fund this in full for a period of 4 years.
- 4.18. Financial contributions to meet the full cost of running the bus service for a minimum of 4 years and Sustainable Travel Vouchers for each dwelling should be secured through a Section 106 agreement.
- 4.19. Conditions are requested to secure the following:
- Off-site highway works to the A2500 Lower Road / Barton Hill Drive roundabout;
 - Vehicle accesses onto Scocles Road and the A2500 Lower Road, and a spine road connecting the two;
 - A footway on the eastern side of Scocles Road between Thistle Hill Way and Elm Lane;
 - A shared use footway/cycleway alongside Lower Road and extending to Scocles Road;
 - A shared use footway/cycleway between the existing provision at the junction of Lower Road and Thistle Hill Way to the junction of Lower Road and Scocles Road;
 - Vehicle parking and turning space to be provided, surfaced and drained prior to occupation of each dwelling;
 - Details of the electric vehicle charging;
 - Details of cycle storage;
 - Approval of details of estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture;
 - Travel Plan.
- 4.20. **KCC PROW:** - There are no Public Rights of Way directly affected within the site; however, there are important routes adjacent to the site which provide access to local facilities, amenities and the wider PRow network. No objections are raised to the application; however, a financial contribution of £48,925 (index linked) is requested to mitigate the increased use of the PRow network. There would also be a negative impact on the landscape and visual amenity of the wider network and the developer contributions sought would mitigate this loss of landscape and visual amenity.
- 4.21. Consideration should be given to pedestrian crossings over Scocles Road to connect the development directly to the above paths, with signed links out of the site to aid this direct connectivity.

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4.22. **Lower Medway Internal Drainage Board:-** It is proposed to discharge into watercourses adopted by the Board. Adequate access to the watercourses for maintenance purposes should be secured. Conditions are requested to secure the following:

- Detailed surface water drainage scheme incorporating Sustainable Drainage Systems (SuDS);
- A Construction Surface Water Management Plan (CSWMP) detailing how surface water and storm water will be managed during the construction stage;
- A SuDS maintenance schedule for the lifetime of the development.

4.23. **Environment Agency:** - No comments.

4.24. **Natural England:** - Initial comments advised that further information was required in order to determine impacts on functionally linked land for non-breeding birds in relation to the Swale Ramsar Site and Special Protection Area (SPA), Outer Thames Estuary SPA and Medway Estuary and Marshes SPA. The applicant responded through the submission of a Habitat Suitability Assessment which concluded that the site does not represent supporting habitat or functionally linked land to any of the neighbouring SPA or Ramsar sites. Following concerns raised by the Kent Wildlife Trust, Natural England were provided with further data by the applicant and have confirmed that they are satisfied that the application site is not functionally linked land.

4.25. **Southern Water:** - The proposed development will lie over an existing 315mm public water distribution main and 12 inch water trunk main, which will not be acceptable to Southern Water. The exact position of the public apparatus must be determined before the layout of the proposed development is finalised. It might be possible to divert the water main, so long as this would result in no unacceptable loss of hydraulic capacity, and the work was carried out at the developer's expense to the satisfaction of Southern Water under the relevant statutory provisions.

4.26. Conditions and informatives are requested relating to the diversion of the water main, delivery of sufficient sewerage infrastructure to serve the development, maintenance and/or adoption by Southern Water of SUDS infrastructure and water supply.

4.27. **SBC Trees:-** The main arboricultural features on the development area are existing boundary hedges with sporadic mature trees being mainly Poplar. The proposed indicative layout would retain much of the boundary hedges and trees. If outline planning permission is granted the final detailed layout should be accompanied by an updated and more comprehensive arboricultural impact assessment and tree protection plan.

4.28. In terms of the proposed landscape strategy plan it is good to see linear tree planting along the major roads and expansion and enhancement of the boundary plantings. The development should seek to conserve and enhance biodiversity through the final

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design. The current landscape strategy could be improved through the introduction of small copse/woodland around the boundaries and the use of larger tree species (such as Black Poplar) in the more open public spaces. An updated and more detailed landscape masterplan should be submitted at reserved matters stage.

- 4.29. **Kent Police:** - No objections raised subject to a condition securing crime prevention and community safety design measures.
- 4.30. **Integrated Care Board:** - Financial contribution of £675,792 is sought towards refurbishment, reconfiguration and/or extension of existing general practice and other healthcare premises covering the area of development or new premises for general practice or healthcare services provided in the community in line with the healthcare infrastructure strategy for the area.
- 4.31. **SBC Climate Change:** - There is no reference to sustainability in any of the relevant documents. However, it is noted that the application seeks outline planning permission and further detail would be anticipated at reserved matters stage. It is also noted that the Future Homes standard, which will become mandatory in 2025, will ensure that the development achieves appropriate standards in terms of energy efficiency and carbon reduction. Conditions are requested to secure sustainable design and energy efficiency measures and details of measures to reduce water consumption.
- 4.32. **Swale footpaths:** - If the development were to go ahead then proper provision for traffic free pedestrian routes (already desirable) would become necessary. The proposed layout provides space for them.

DEVELOPMENT PLAN POLICIES5.1. **Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 –**

- **ST 1** Delivering sustainable development.
- **ST 2** Development targets for jobs and homes 2014- 2031
- **ST 3** The Swale settlement strategy
- **ST 4** Meeting the Local Plan development targets
- **ST 6** The Isle of Sheppey area strategy
- **CP 1** Building a strong, competitive economy
- **CP 2** Promoting sustainable transport
- **CP 3** Delivering a wide choice of high-quality homes
- **CP 4** Requiring good design
- **CP 5** Health and wellbeing
- **CP 6** Community facilities and services to meet local needs
- **CP 7** Conserving and enhancing the natural environment
- **CP 8** Conserving and enhancing the historic environment
- **DM 6** Managing transport demand and impact
- **DM 7** Vehicle parking

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- **DM 8** Affordable Housing
- **DM 14** General development criteria
- **DM 17** Open space, sport and recreation provision
- **DM 19** Sustainable design and construction
- **DM 21** Water, flooding and drainage
- **DM 24** Conserving and enhancing valued landscapes
- **DM 28** Biodiversity and geological conservation
- **DM 29** Woodland, trees and hedges
- **DM 31** Agricultural land
- **DM 32** Development involving listed buildings.

5.2. Supplementary Planning Guidance/Documents –

- Landscape Character and Biodiversity Appraisal (2011);
- Swale Borough Council's Noise and Vibration Planning Technical Guidance (2020);
- KCC Developer Contributions Guide;
- Developer contributions SPD (2009);
- Swale Landscape Character and Biodiversity Appraisal SPD (2011);
- Parking Standards SPD (2020);
- Planting on New Developments: A Guide for Developers;
- Air Quality Technical Guidance (2021);
- Guidance for complying with the climate change planning condition to reduce operational carbon of new dwellings in Swale by 50% (2020);
- Kent Design – A Guide to Sustainable Development (2000);
- National Design Guide: Planning practice guidance for beautiful, enduring and successful places (2021);
- Renewable Energy Guide (2014);
- Housing Supply Statement (2022 -2023);
- Open Spaces and Play Area Strategy (2018-2022);
- A Heritage Strategy for Swale (2020);
- National Planning Practice Guidance.

ASSESSMENT

- 6.1. This application is reported to the Committee because Councillors Harrison and Jayes have called the application in to be considered by the Planning Committee whilst Eastchurch and Minster Parish Councils have raised objections.
- 6.2. The main considerations involved in the assessment of the application are:
 - The Principle of Development
 - Loss of Agricultural Land

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- Size and Type of Housing
- Affordable Housing
- Landscape and Visual
- Heritage
- Archaeology
- Design of the proposed development
- Ecology
- Transport and Highways
- Air Quality
- Community Infrastructure
- Open Space, Sport and Recreation
- Flood Risk, Drainage and Surface Water
- Contamination
- Living Conditions
- Sustainability / Energy
- Other Matters

Principle

- 6.3. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.
- 6.4. The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.

Housing

- 6.5. Local Plan Policy ST1 (4) states that to deliver sustainable development in Swale, all development proposals will, as appropriate, accord with the Local Plan settlement strategy. Local Plan Policy ST3 (5) relates to the settlement strategy and states that at locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.
- 6.6. The supporting text to Policy ST3 states in part that the primary objective of the strategy outside the built-up boundaries will be to protect it from isolated and/or large

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scales of development (as is proposed). The site lies adjacent to but wholly outside of the settlement boundary for Minster in the open countryside. Accordingly, the application is in conflict with Policies ST 1 and ST 3.

- 6.7. The Council can demonstrate a 4.1-year supply of housing. In accordance with footnote 8 to paragraph 11 of the NPPF, the most important policies for determining this application cannot be considered up-to-date, and the ‘Tilted Balance’ in favour of sustainable development should apply to decision making. Only if the adverse impacts of the proposal significantly and demonstrably outweigh the benefits, should planning permission be refused.
- 6.8. As noted above, residential development conflicts with the Local Plan settlement strategy. However, given the Council’s lack of a 5 year housing land supply and the application of the ‘Tilted Balance’, the defined boundary around Minster is not afforded full weight. It is clear from the SHLAA assessment that the site is suitable for residential development of this scale. The erection of 650 dwellings including 41.5% affordable housing would contribute significantly towards addressing the borough’s lack of a 5-year housing land supply whilst addressing a significant need for affordable housing. The application of the ‘Tilted Balance’ affords significant weight to the delivery of housing. The subsequent sections of this report make an assessment of the impacts of the development and consideration of whether these would significantly and demonstrably outweigh the benefits. This is considered in the Planning Balance section of this report.

Community Facilities, Sports Pitches, Open Space and Recreation

- 6.9. The proposal includes a multi-use Community Hub, Medical Hub, sports pitches, children’s play areas, allotments and open space for recreation. The requirement for this provision arises from the demand generated by future occupiers of the proposed housing, and its acceptability is interrelated to the acceptability of the housing. In the event that the proposed housing is considered acceptable it would therefore follow that community, sporting and recreational facilities necessary to support the residential use are also acceptable in principle.

Loss of Agricultural Land

- 6.10. Policy DM 31 of the Local Plan indicates that development on agricultural land will only be permitted where there is an overriding need that cannot be met on land within the built-up area boundaries. The policy indicates that development on Best and Most Versatile (BMV) agricultural land (identified as Grades 1, 2, and 3a) will not be permitted unless three criteria have been met. This requirement is reiterated under Local Plan policy ST 6 (The Isle of Sheppey area strategy).
- 6.11. NPPF paragraph 175 is concerned with allocating land for development which has the least environmental or amenity value where consistent with other policies in the Framework. Footnote 58 to this paragraph advises that where significant development

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of agricultural land is demonstrated to be necessary, areas of poorer land should be preferred to those of a higher quality.

- 6.12. Grade 3 agricultural land is subdivided into categories 3a and 3b. Grade 3b is not categorised as BMV and is not captured by policy DM 31. Natural England's Agricultural Land Classification Map identifies that the site is Grade 3 agricultural land but this map does not differentiate between Grades 3a and 3b. The applicant has submitted correspondence from an Agronomist who has visited the site and notes that it is currently in arable production supporting a poor crop of wheat. A visual inspection of the soil type and structure was undertaken along with a soil structure pentameter test which identified soil compaction leading to an anaerobic soil with extremely low organic matter and a worm count of 2. The agronomist concluded that the site comprises Grade 3b agricultural land. It is also noted that the site at Land West of Elm Lane to the north of the application site (considered under planning application ref. 20/504408/OUT) was identified as comprising Grade 3b agricultural land with a small area of Grade 4 land. Defra's Magic Map indicates that the land to the west of Scocles Road which has now been developed as part of the Thistle Hill estate comprised Grade 3b agricultural land.
- 6.13. The available information suggests that the site comprises poorer quality agricultural land which is preferable to develop in order to meet the borough's housing needs. It is therefore considered that the proposal is acceptable in terms of loss of agricultural and is in accordance with the NPPF.

Size and Type of Housing

- 6.14. Paragraph 9 of the NPPF states that sustainable development involves seeking positive improvements in the quality of the built environment, including widening the choice of high-quality homes. The NPPF recognises that in order to create sustainable, inclusive and diverse communities, a mix of housing types, which is based on demographic trends, market trends and the needs of different groups, should be provided.
- 6.15. The proposed development will deliver 41.5% (270 units) affordable housing which represents additionality over the Local Plan Policy DM 8 requirement for 0% affordable housing in respect of developments of 11 or more dwellings on the Isle of Sheppey.
- 6.16. Local Plan Policy CP 3 requires the mix of tenures and sizes of homes provided in any development to reflect local needs and the Strategic Housing Market Assessment. The proposed mix of housing is set out below:

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Tenure	1 Bed Flat	1 Bed House	2 Bed Flat	2 Bed House	3 Bed House	4 Bed House	Total
Market*	28	0	0	138	160	54	380
Affordable	54	24	6	74	80	32	270
Total	82	24	6	212	240	86	650

* Market housing is indicative at this Outline stage.

- 6.17. The supporting text to Local Plan Policy CP3 sets out requirements for market and affordable housing by size. The table below shows the requirements set out in supporting text for Local Plan Policy CP3 and how the proposal compares with this.

Tenure – Local Plan	1 Bed	2 Bed	3 Bed	4 Bed	5 Bed	Total
Market Required	7%	36%	42%	15%	0%	100%
Market Proposed	7.4%	36.3%	42%	14.2%	0%	100%
Affordable Required	8%	20%	36%	36%	0%	100%
Affordable Proposed	28.9%	29.6%	29.6%	11.9%	0%	100%

- 6.18. The Council has a Housing Market Assessment (HMA) prepared in 2020, i.e., more recently than the Local Plan, and after the introduction of the standard method for calculating the objectively assessed need. As such officers have considered the proposed mix against that set out in the HMA.

Tenure - HMA	1 Bed	2 Bed	3 Bed	4 Bed	5 Bed	Total
Market Required	7%	33%	41%	19%	0%	100%
Market Proposed	7.4%	36.3%	42%	14.2%	0%	100%
Affordable Required	27%	23%	30%	20%	0%	100%
Affordable Proposed	28.9%	29.6%	29.6%	11.9%	0%	100%

- 6.19. The HMA (2020) broadly echoes the Local Plan requirements in terms of the mix of dwelling sizes, albeit the requirement for 1-bedroom affordable dwellings is notably higher. It should be noted that this reflects the Borough wide need.

- 6.20. In terms of the market housing, the proposed indicative mix would broadly equate to the identified borough wide need as set out above. Local housing market areas have been identified which relate to specific postcode evidence. For the Isle of Sheppey, the supporting text to Policy CP3 states that demand is greatest for family housing. Future development of quality family housing that reflects the character of the area should be encouraged. In view of the identified need within Sheppey, it is considered that the proposed development would provide an acceptable mix of housing.

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6.21. The affordable provision is fairly broadly in accordance with the requirements identified above. However, it should also be noted that the housing register indicates considerable demand for all sizes of dwellings. The figures for Sheppey are as follows, as of July 2024:

- 1 bed - 361 applicants
- 2 bed - 214 applicants
- 3 bed - 182 applicants
- 4 bed - 132 applicants.

6.22. The social rented provision is intended to directly respond to identified local need whilst the shared ownership provision is based upon market research which has been undertaken to identify the likely need. The Council's Affordable Housing Manager raises no objection in relation to the affordable housing tenure mix.

6.23. In terms of extra care housing, the KCC Adult Social Care and Health Commissioner has advised that the borough presently has 51 extra care units and has a need for an additional 205 extra care units by 2026 with a potential demand for a further 63 units by 2031. The identified need is not broken down by unit size; however, in view of the outstanding need the 90 extra care units proposed would make a significant contribution to meeting current need. The Commissioner advises that KCC are hugely supportive of the proposed delivery of extra care housing.

6.24. Officers have taken account of the context in which the site is set, policy requirements, the HMA, the housing register, the local housing market areas and overall analysis shows that the proposal satisfactorily complies with Local Plan Policy CP3.

Affordable Housing

6.25. The NPPF sets out the requirement for setting appropriate affordable housing levels for new development based on up-to-date evidence. Local Plan Policy DM 8 sets out that nil affordable housing will be required from developments on the Isle of Sheppey as the delivery of affordable housing without grant funding has not been demonstrated to be viable. As a result, affordable housing need on the Isle of Sheppey is high and the delivery of new affordable homes, in particular affordable and social rent tenure housing, falls far below local housing need.

6.26. Paragraph 7.3.14 of the Local Plan notes that there is an identified need for affordable older person housing (retirement dwellings and extra care housing) and the current viability evidence shows this to be marginally viable in Faversham and rural areas...As a result, extra care housing is not sought in the policy, however the Council is keen to support proposals for affordable older persons housing.

6.27. As set out above, there are a considerable number of applicants on the Council's Housing Register for Sheppey for all unit sizes. The number of households living in temporary accommodation in Swale was the highest across all Kent authorities last

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year. The following proposed affordable tenure mix will be incorporated within the scheme: -

	1 bed	2 bed	3 bed	4 bed	Total
Social rent extra care	78	12	0	0	90
Social rent	0	28	50	22	100
Shared ownership	0	40	30	10	80

6.28. The proposed delivery of 270 units (41.5%) affordable housing would obviously exceed the nil policy requirement for the Isle of Sheppey. There are no tenure mix requirements in view of the nil policy requirement. The provision of 80 (29.6%) shared ownership and 190 (70.4%) social rented homes is very much welcomed in affordable housing terms. As noted above, the proposed affordable housing would be delivered during the first phase of the development and therefore should assist in meeting affordable housing need in a timely manner.

Inclusive and Mixed Communities

6.29. Policy CP 3 promotes the delivery of inclusive and mixed communities. The proposed phasing of the development will involve the delivery of market and affordable housing within separate parcels of land, with the affordable housing comprising the first phase of development. A 60-unit extra care block and 30 extra care bungalows are proposed within a parcel to the centre of the site, immediately to the east of the Community Hub. The shared ownership and social rent housing will be provided within a parcel to the north of the site (80 units) and within a parcel to the south-east (100 units). There will be pepper-potting of the shared ownership and social rent tenures within these parcels and the houses will be designed to be indistinguishable in tenure terms. It is also noted that the affordable housing will comprise a range of unit sizes to respond to local need whilst residents of all tenures will share the community facilities and open spaces within the site. It is therefore considered that, whilst there will be concentrations of affordable housing within the site, the development will facilitate a sufficiently inclusive and mixed community.

Accessible and Adaptable Homes

6.30. In line with Policies DM8 and CP3 of the Local Plan the affordable homes should be designed for use by disabled persons and made available for a variety of groups including families, vulnerable and older persons. As such, there should be a number of accessible and wheelchair adaptable homes provided. It is proposed that at least 10% of the social rented homes be built to Building Regulations Part M4(3) standard (wheelchair user dwelling) with the remaining affordable homes provided to Part M4(2) standard (accessible and adaptable dwellings). It is recommended that the accessible and adaptable homes are secured by planning condition (No. 48).

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Affordable Housing Delivery

- 6.31. The terms of Homes England grant funding for the delivery of affordable housing presently imposes restrictions whereby the funding cannot be applied in cases where the affordable housing is secured through a Section 106 agreement. In this case 25% of the proposed affordable housing can be delivered with recycled grant funding which Moat Housing Association are able to allocate to the scheme and which is unaffected by these restrictions. The remaining 16.5% affordable housing will be delivered with Homes England grant funding and accordingly cannot be secured by a condition or legal agreement. A mechanism has been agreed whereby the Section 106 agreement will include 2 options relating to the delivery of affordable housing. Option A will secure the 25% affordable housing which will be delivered with recycled grant funding. Option B will secure the total (41.5%) affordable housing proposed. The additional 16.5% is included within the Section 106 agreement but as there is an alternative Option A there would not be a conflict with the Homes England grant funding restrictions.
- 6.32. The ability of the applicant to exercise Option A represents a risk that the additional 16.5% affordable housing is not delivered. The applicant advises that there are contracts in place and commitments on the part of Homes England, Moat Housing and Housing 21 to fund and deliver the proposed affordable housing. Homes England is a public body whilst the registered providers are not-for-profit organisations and are reputable. It can be considered that these factors go some way to mitigate any risk that the affordable housing will not be delivered. However, in view of this risk it is considered that within the planning balance substantial weight can be afforded to the delivery of the 25% affordable housing and significant weight can be afforded to the delivery of the further 16.5% affordable housing.
- 6.33. The proposals are considered consistent with policies DM8 and CP3 of the Local Plan and the NPPF and are therefore acceptable in terms of affordable housing.

Landscape and Visual

- 6.34. The NPPF requires decisions to ensure that development is *'sympathetic to... landscape setting'* whilst paragraph 174 criterion b) states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.
- 6.35. The site is not within a designated landscape. Local Plan Policy DM24 states that the value, character, amenity and tranquillity of the Borough's landscapes will be protected, enhanced, and, where appropriate, managed. The policy further states at Part B that non-designated landscapes will be protected and enhanced and planning permission will be granted subject to the minimisation and mitigation of adverse landscape impacts. When significant adverse impacts remain, the social and or economic benefits of the proposal need to significantly and demonstrably outweigh the harm to the landscape character and value of the area.

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6.36. Local Plan Policy ST6 (the Isle of Sheppey area strategy) states at part 9 that development proposals will, as appropriate:

Improve the condition and quality of landscapes in the area, especially those in poor condition and ensure that development is appropriate to landscape character and quality, especially within landscape designations and areas with low or moderate capacity to accommodate change. Additionally, the Council will seek to bring landscape wide initiatives to Sheppey to improve landscape condition.

6.37. The application site is not noted for its special quality or character in landscape terms. It consists of a large arable field and is set within a landscape that has a sloping landform, moderate sense of rural character, is visually prominent in relation to views from the lower lying marshes and contributes to a rural setting to the historic core of Minster. The site is bound along the northern edge by dense hedgerows and trees which help to screen the site in this direction. However, there is open visibility of the site along Scocles Road and Lower Road.

6.38. The National Character Area Profile (prepared by Natural England in 2013) locates the site within the landscape character area of the 'Greater Thames Estuary'. The National Character Area Profile states that the Greater Thames Estuary should be improved and protected and planting to screen new urban and industrial developments should be introduced to help protect the tranquillity of the estuary.

6.39. The Landscape Assessment of Kent (2004) locates the site within the North Sheppey Local Character Area (LCA) and describes this LCA as having been subject to change whereby it now has an exposed and open character and is in poor condition. It is considered to have a moderate sensitivity to change. The recommendations of the Assessment include encouraging urban planting within built development and the creation of urban edges which promote intermittent views of built development beyond.

6.40. Swale's Landscape Character and Biodiversity Appraisal (2011) is also relevant and the application site lies within Swale's Landscape Character Area 13 (LCA13) (Central Sheppey Farmlands). The overall condition of LCA13 is identified as 'poor' due to fragmented shelterbelts and hedgerows and urban fringe activities. LCA13 is considered to have a 'moderate' sensitivity to change. The hills are visually prominent, and the landscape has a rural character, despite the urbanising influence of roads, lighting and ribbon development. It is noted that the condition of individual parcels of land within LCA13 vary enormously.

6.41. In 2018, the Council commissioned Land Use Company (LUC) to carry out and produce the Swale Landscape Sensitivity Assessment (2019). The application site forms part of Landscape Sensitivity Parcel MR2 and the assessment notes that the landscape is important as part of the rural setting for the historic core of Minster, including Minster Abbey on the ridge. The assessment concludes that MR2 has an overall moderate-high sensitivity to residential development of 2-3 storey housing over

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2ha. This is due to the sloping landform, moderate sense of rural character, visual prominence in views from the lower-lying marshes, and the role the slopes provide as a rural setting to Minster. It states, “*there may be opportunities for limited further housing infill particularly where this can help achieve better overall integration of the urban edges with their landscape setting*”.

- 6.42. The Assessment provides some general guidance which encourages a landscape led approach to new development and conservation of the open rural slopes which are prominent in views from the marshland to the south and form a rural setting and foreground to Minster Abbey. A predominantly rural setting should be maintained along the A2500 with minimal development to its south, whilst development should be low rise and visually prominent buildings should be avoided. The site is located centrally within the MR2 parcel on the lower slopes rising up from Lower Road (A2500) which are identified as sensitive. The location of the site extending out into the wider landscape east of Scocles Road would create a more exposed unintegrated urban edge to this part of Minster. It also forms part of the open rural setting along the A2500.
- 6.43. As noted above, the applicant advises that they have adopted a ‘landscape-led’ approach to the proposed development whereby the proposals were informed by a landscape assessment to understand the site and surrounding context from a landscape perspective. A landscape parameters plan was produced which detailed potentially sensitive landscape areas within the site and incorporated a substantial, soft-edged landscape buffer to integrate the development with surrounding countryside. The proposals incorporate generous green spaces and greater offset to the surrounding landscape.
- 6.44. The application is accompanied a Landscape Visual Impact Assessment (LVIA) which provides a landscape character baseline for the assessment which is informed by the National, County and District level assessments. The methodology and findings of the LVIA have been reviewed and in terms of the landscape character baseline it is considered that the site has a medium landscape value and a moderate-high sensitivity to change whilst the broader area has a medium sensitivity to change.
- 6.45. In terms of effect on landscape character, the proposed development would be integrated into the existing settlement edge which, along with the landscape strategy would reduce its impact on the wider landscape setting. The impact on the localised setting would also be mitigated by the landscape strategy as well as the scale, massing and layout of the proposed development. These measures would also assist in mitigating the impact of the development within the site itself whilst, given the relationship of the site to the existing settlement of Minster, it would not introduce elements significantly at odds with the immediate prevailing character. Accordingly, it is considered that the proposed residential development of an agricultural field, which forms a prominent part of a wider rural landscape, would result in a moderate (or greater) impact on the site and the localised and wider landscape character area at

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year 1 and remain at moderate in year 10 once the proposed landscape planting has established.

- 6.46. The wider landscape is identified as contributing to the rural setting of Minster Abbey and as being visually prominent in views from the marshland to the south. The LVIA acknowledges that there would be an adverse impact in landscape terms on the setting of Minster Abbey; however, in view of the significant extent of built form around the Abbey the proposed development would not result in a significant change in the landscape character and visual amenity of its setting. In terms of views from the marshes to the south, visibility of the site is highly limited by intervening arable land and vegetation structure whilst the proposed landscape buffer would further reduce the impact of the development.
- 6.47. The LVIA considers the visual impact of the assessment from a series of publicly accessible viewpoints which include PRowS ZS5 and ZS7 to the east, ZS6 to the north and ZS8 to the north-east. 21 viewpoints of the site were selected through a field assessment and a desk study informed by the use of a 'Zone of Theoretical Visibility' (ZTV) which is a tool employed to identify the likely (or theoretical) extent of visibility of a development. The LVIA then goes on to consider the likely significance of the landscape and visual effects at year 0 and at year 10 once the proposed landscape planting has established.
- 6.48. Four views have been assessed from PRow ZS7 and there will be a moderate adverse effect in year 0 and a minor beneficial effect in year 10 following the establishment of extensive landscaping to the eastern boundary. Two views from PRow ZS8 have been assessed and there will be a moderate adverse effect in both years 0 and 10 as the site cannot be screened from these elevated viewpoints. Three longer distance views of the site from PRow ZS5 have been considered and there will be a moderate neutral effect in year 0 and a moderate beneficial effect in year 10 once the landscape planting has matured. Two viewpoints from PRow ZS6 have been assessed and an additional degree of roofscape would be perceived which will be increasingly screened by landscape planting with a low neutral effect in year 1 and a negligible beneficial effect in year 10.
- 6.49. Two viewpoints experienced by motorists on Lower Road have been assessed. Viewpoint 12 is approx. 1.2km to the southeast of the site and is identified as a sensitive view whilst Viewpoint 13 is located adjacent to the southern boundary of the site. Viewpoint 12 would be subject to at least a moderate adverse impact in year 0 and year 10 due to the sloping orientation of the field and limited opportunity for landscape screening. Viewpoint 13 from Lower Road adjacent to the southern boundary of the site would be subject to a moderate adverse impact in both year 0 and year 10 as existing boundary vegetation will be replaced by a new access road and junction whilst new landscape planting is proposed to soften views of the development.

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- 6.50. Six viewpoints which will be experienced by residents on Scocles Road have been assessed and it is considered that there will be a moderate adverse impact in year 0, including by reason of the introduction of the access road from Scocles Road. The establishment of landscape planting will reduce the visual effect of the development to low neutral by year 10.
- 6.51. The proposed development will be entirely screened by the topography from the remaining 2 viewpoints.
- 6.52. In conclusion, the application site has a landscape value and visual sensitivity due to its rising topography and relationship with the wider setting of Minster and the marshes, the open character of the landscape, availability of overlooking views and the prominence of the site within them. Mature landscape planting will act as a screen for the development and will provide some mitigation of the impacts of the proposal. Visibility is likely to be greatest during the construction period, however this would be for a limited period. The landscape strategy includes internal tree planting which is intended to soften the appearance of the proposed buildings and create an appropriate landscape character on the site, whilst enhancing biodiversity.
- 6.53. Details of landscaping would be submitted at reserved matters stage which would represent an opportunity to ensure that the planting provides an appropriate degree of landscape screening with a suitable mix of native planting. In view of the impact of the proposal on landscape character and the visual impacts to landscape, and having regard to the landscape mitigation which will mature around year 10, it is considered that the proposed development would not protect and enhance this non-designated landscape and would result in a moderate degree of harm in landscape terms. As such, the proposed development would not be in accordance with the NPPF and Local Plan Policies ST6 and DM24.

Heritage

- 6.54. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“PLBCAA”) provides that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 6.55. The NPPF states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset’s conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.

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- 6.56. Local Plan Policy CP 8 states that development will sustain and enhance the significance of designated and non-designated heritage assets to sustain the historic environment whilst creating for all areas a sense of place and special identity. Policy DM32 relates to listed buildings and is clear that proposals affecting listed building must preserve the buildings setting and any features of special architectural or historic interest.
- 6.57. The application is accompanied by a Heritage Statement which identifies that the Grade II Listed Scocles Court, a former farmhouse located on the opposite side of Scocles Road, is the only heritage asset which would be materially impacted by the proposed development. The farmhouse originally benefitted from the rural setting provided by Scocles Farm which included agricultural land within the application site as well as land to the south, west and north. Housing development has been allowed to take place to the south, west and north of the site. The Heritage Statement asserts that the significance of the asset is largely derived from its architectural and archaeological interest and whilst the agricultural fields to the east of Scocles Road do relate to its former function as a farm. The redevelopment of its immediate farmstead setting and envelopment within modern residential development has served to diminish any understanding of its role within the context of the farmstead and, in turn, the contribution setting makes to the significance of Scocles Court. Accordingly, the statement concludes that Scocles Court makes no contribution to the significance of the designated heritage asset and, therefore, there will be no harm as an effect of the proposed development.
- 6.58. SBC Heritage consider that the proposed development of the fields to the east would in effect largely remove the last meaningful vestiges of agricultural setting to this building, thereby potentially giving rise to the situation where its historic function cannot be readily understood and/or appreciated, to the detriment of public enjoyment of this designated heritage asset.
- 6.59. SBC Heritage advise that, in the context of the changes that have already taken place to the setting of this former farmhouse and those that are agreed and effectively in the pipeline to be delivered, it is considered that there will be a degree of less than substantial harm towards the middle range of the spectrum. This harm should be mitigated as far as reasonably possible whilst the remaining harm should be balanced against the public benefits of the scheme.
- 6.60. The applicant has revised the Masterplan layout to provide a greater quantum of open space within the application site immediately opposite Scocles Court; however, it is advised that the revisions do not sufficiently address the identified concerns. The Council's Heritage Manager has suggested that further mitigation could be achieved through interpretation measures which would assist local residents and visitors to the area being able to appreciate the historic function and original agricultural setting of

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the listed building. Condition 51 is recommended to secure a heritage interpretation board.

- 6.61. SBC Heritage suggest that meaningful mitigation would likely need to consist of a wide green corridor (minimum width of 50 metres) positioned directly adjacent the listed building providing it with a visual linkage to the farmland to the east of the application site area, or alternatively, the southwest part of the site remaining undeveloped and ideally retained at least in part agricultural use. The applicant has declined to incorporate such measures and it can be accepted that such measures would unduly compromise the scheme as submitted, including the delivery of affordable housing. Accordingly, the identified medium level of less than substantial should be balanced against the public benefits of the proposal in accordance with paragraph 208 of the NPPF.
- 6.62. The decision-maker needs to ensure that they give considerable importance and weight to any harm to the significance of a designated heritage asset, and ensure that the more important the asset, the more the weight that is given to the harm in the balancing exercise.
- 6.63. A public benefit can be anything that delivers economic, social or environmental objectives, which are the three overarching objectives of the planning system as set out in the NPPF. The public benefits of the proposed development are weighed against the identified medium level of less than substantial harm within the planning balance section of this report; however, it should be noted that this is a separate exercise to the assessment of the overall planning balance.

Archaeology

- 6.64. The NPPF sets out that where development has the potential to affect heritage assets with archaeological interest, LPAs should require developers to submit an appropriate desk-based assessment, and where necessary, a field evaluation.
- 6.65. The application is accompanied by a Historic Environment Desk Based Assessment which identifies that there may be potential for the survival of sub-surface remains of the later prehistoric and Roman period date which would be of local significance. There is also some potential for the survival of sub-surface features relating to medieval and postmedieval agricultural activity, such as ploughing or drainage features, which could be impacted by the proposed development in the south-east of the site, but any such remains would be considered to be of negligible significance. The KCC Archaeological Officer advises that a condition should be imposed on any consent requiring an archaeological investigation.
- 6.66. Subject to such a condition, no objection is raised in relation to compliance with policy DM34 of the Local Plan which requires archaeological mitigation or the preservation of important archaeological features in situ.

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Character and appearance

- 6.67. The National Planning Policy Framework attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement.
- 6.68. The National Design Guide illustrates how well-designed places that are beautiful, enduring and successful can be achieved in practice. The Kent Design Guide seeks to provide a starting point for good design while retaining scope for creative, individual approaches to different buildings and different areas and provides criteria necessary for assessing planning applications.
- 6.69. Whilst the layout, appearance, scale and landscaping of the development are reserved for future consideration the illustrative Masterplan provides some indication of how the proposal could be developed. Intent is also shown within Design and Access Statement which advises that the appearance of the proposed development will be informed by the surrounding context with indicative architectural features including hipped roofs, timber cladding, hanging tiles, bay windows and pillared porches. Members will also appreciate that as details other than access are reserved, there will be an opportunity to control the quality of the final development at the point when the reserved matters applications are submitted. There is no reason that the appearance of dwellings could not be sympathetically designed to be in keeping with local typologies that would assimilate well with the existing context. Any future reserved matters application that includes appearance would need to set out the extent to which the development is consistent with the National Design Guide and Kent Design Guide. A condition is recommended to secure a site wide detailed masterplan and associated design code with the first reserved matters submission and subsequent compliance with the approved details.
- 6.70. It is considered that appropriate details can be secured at reserved matters stage in order to ensure that the siting, scale, design, appearance and detail of the scheme represents a high-quality design that is appropriate to its surroundings in accordance with Local Plan Policies CP 4 and DM 14.

Trees

- 6.71. The NPPF recognises the contribution of trees to the intrinsic character and beauty of the countryside. The Local Plan requirement is recognised through Policy DM 29 of the Local Plan.
- 6.72. The application is accompanied by an Arboricultural Impact Assessment which identifies that some category B hedgerow and some small category B Ash and Hawthorn trees will require removal in order to facilitate the development. All other trees on and adjacent to the site will be retained and protected during development.

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- 6.73. The Arboricultural Impact Assessment has been reviewed by the Council's Trees Officer who observes that the main arboricultural features on the development area are existing boundary hedges with sporadic mature trees being mainly Poplar. The proposed indicative layout would retain much of the boundary hedges and trees. If outline planning permission is granted the final detailed layout should be accompanied by an updated and more comprehensive Arboricultural Impact Assessment and Tree Protection Plan in accordance with BS5837:2012.
- 6.74. The Trees Officer welcomes the proposed linear tree planting along the major roads and expansion and enhancement of the boundary plantings. The development should seek to conserve and enhance biodiversity through the final design. The current landscape strategy could be improved through the introduction of small copse/woodland around the boundaries and the use of larger tree species (such as Black Poplar) in the more open public spaces. An updated and more detailed landscape masterplan should be submitted at reserved matters stage (condition 11).
- 6.75. The proposed development is considered acceptable in terms of trees in accordance with Local Plan Policy DM 29.

Ecology

- 6.76. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by Policies CP 7 and DM 28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.
- 6.77. Under the Natural Environment and Rural Communities Act (2006), the authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions for the purpose of furthering the general biodiversity objective of conserving and enhancing biodiversity in England. Furthermore, the National Planning Policy Framework states that 'the planning system should contribute to and enhance the natural environment by minimising impacts on biodiversity and delivering net gains in biodiversity where possible'. The National Planning Policy Framework states that 'if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for then planning permission should be refused.'
- 6.78. National planning policy aims to conserve and enhance biodiversity, and encourages opportunities to incorporate biodiversity in and around developments. Under the Natural Environment and Rural Communities Act (2006), "every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of these function, to the purpose of conserving biodiversity".

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6.79. Local Plan Policy ST 6 (The Isle of Sheppey area strategy) seeks net gains to biodiversity and natural and semi-natural greenspace at development sites and mitigation of impacts on internationally designated sites for biodiversity.

6.80. The application is accompanied by a Preliminary Ecological Appraisal (PEA) which identifies the presence or potential for protected and priority habitats and species within and around the application site and the potential for these features to be adversely affected without appropriate avoidance and mitigation measures. These features include:

- Hedgerows – sections of hedgerow will need to be removed to create site access and the necessary associated sight lines;
- Bats – four trees with potential to support roosting bats were identified in the field surveys. These trees therefore need to be fully protected during construction and on completion of the proposed development;
- Reptiles – habitats around the boundaries of the application site include scrub, tussocky grassland and wet ditches which have a high potential to support common reptile species such as slow worm, common lizard and grass snake. Suitable reptile habitat will need to be removed to create site access and the necessary associated sight lines and a significant area of this habitat is proposed for residential development in the south-west corner of the application site;
- Water Vole – the water-filled ditch habitats on site are suitable for water vole and potential water vole burrows were found during field surveys. Part of the water-filled ditch will be impacted by the creation of the proposed road access from Scocles Road;
- Brown Hare – the habitat on site is suitable for this species;
- Nesting birds – bird nesting was confirmed during field surveys and two male skylarks were heard singing overhead. This indicates that skylarks may be nesting within the application site.

6.81. The PEA concludes that the site is considered to be of low local value for wildlife whilst the vast majority of habitats considered to be of higher value to wildlife on the site can be retained. Overall, the risk of impact to protected species or habitats from the proposed development is identified as negligible. Furthermore, with suitable biodiversity enhancements incorporated into the development it is considered there would be significant scope for the site to achieve a biodiversity net gain. These measures could be secured by condition and through reserved matters of landscaping.

6.82. The KCC Ecology officer raises no objections to the proposal subject to a condition securing an Ecological Mitigation and Management Plan. In order that any retained habitats and those proposed for creation are appropriately managed to ensure their satisfactory establishment and long-term management so that biodiversity conservation objectives are delivered, a condition securing a Landscape and Ecological Management Plan is also sought.

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- 6.83. The assessment identified a negligible risk to great crested newt; however, the KCC Ecology Officer recommends that precautionary methods for working should be adopted to avoid the risk of killing or injury to great crested newts and other amphibians.
- 6.84. Natural England provided initial comments seeking further information in order to determine the impacts on functionally linked land for non-breeding birds in relation to the Swale Ramsar Site and Special Protection Area (SPA), Outer Thames Estuary SPA and Medway Estuary and Marshes SPA. The applicant responded through the submission of an HSA which concluded that the site does not represent supporting habitat or functionally linked land to any of the neighbouring SPA or Ramsar sites. The Kent Wildlife Trust subsequently raised concerns regarding the adequacy of the HSA and the applicant has provided Natural England with further information. Natural England have confirmed that they are satisfied that the application site is not supporting habitat or functionally linked land to the SPA or Ramsar sites.
- 6.85. The Kent Wildlife Trust have raised a series of concerns which are summarised as follows, with officer responses provided:
- Situated to the north of the application site are the Sheppey Cliffs and Foreshore Site of Special Scientific Interest (SSSI) and the Minster Marshes Local Wildlife Site (LWS). Situated to the south of the application site are The Swale SSSI, Special Protection Area (SPA), Ramsar, the Medway Estuary and Marshes SPA and Ramsar, the Elmley National Nature Reserve, and The Swale Estuary Marine Conservation Zone.
 - Insufficient information to determine whether the site forms functionally linked land to the relevant designated sites. HSA does not establish that the site is not suitable for the designated features of the SPA and Ramsar. HSA does not collect existing bird data due to an absence of such data and therefore appropriate breeding and wintering bird surveys need to be carried out. *Officer response: the HSA identifies several factors which reduce its suitability as functionally linked land including: tall boundary hedgerows and the undulating nature of the site which reduce its visibility; proximity to residential development; distance from the designated sites and availability of more suitable habitat in the intervening area.*
 - Concerns about impacts on any protected and priority species on the adjoining land to the east which shares the application site's characteristics and could be functionally linked to the relevant designated sites - this land should be part of the HSA survey area. *Officer response: The HSA concludes that the land to the east would not represent supporting habitat or functionally linked land largely on the basis that there is more suitable (i.e. largely flat) farmland available close to the designated site.*
 - Natural England's most recent comments provide their standing advice which contradicts comments made on 20th June 2022 requesting submission of an HSA

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- clarification on this from Natural England should be sought prior to determination of the application. *Officer response: Natural England have confirmed that they are satisfied that the application site is not functionally linked land.*
- Insufficient mitigation measures are proposed to address the development's impact on the designated sites due to increased recreational pressures including disturbance of ground nesting birds, trampling of sensitive vegetation and dogs being walked off lead. Concerns at impact of increased cat predation on the designated features of the SSSI, SPA and Ramsar and LWS. *Officer response: these impacts are considered as part of the Appropriate Assessment set out in this report. The Council will secure a financial contribution through a Section 106 agreement to mitigate the impacts of the development.*
 - Impacts from increased visitor pressure on Elmley National Nature Reserve are discounted due to the reserve being in private ownership and able to restrict visitor numbers. This does not account for two public footpaths and one public bridleway that cross the nature reserve or the adjacent public car park. *Officer response: The impacts are not discounted but indicated to be less relevant. In view of the distance of the PRoWs and bridleway from the application site it is not considered that the proposed development would result in increased use which would result in adverse impacts upon these PRoWs and bridleway.*
 - Preliminary Ecological Assessment (PEA) identifies the ditch habitat on site as being suitable for water vole with three potential burrows having been found and therefore surveys should be carried out. It is also not clear whether invertebrate surveys of the ditch habitat have been considered. *Officer response: It is considered that any impacts on water vole and invertebrates can be satisfactorily addressed through the Ecological Mitigation and Management Plan which would be secured by condition.*
 - Proposals may impact foraging, commuting and roosting bats and dark corridors, including for commuting bats, are not proposed through the site whilst unsuitable or no habitat is provided across the developed areas. Bats utilising the site will be impacted by light pollution and the lack of dark corridors and bat surveys have not been carried out so the impact on bats cannot be assessed. *Officer response: It is considered that any impacts on bats can be satisfactorily addressed through the Ecological Mitigation and Management Plan which would be secured by condition. A condition is also recommended to secure a Lighting Design for Biodiversity which will address impacts on bats.*
 - PEA states that two male skylarks were recorded overhead so may be nesting within the site. Insufficient information has been provided to establish what species are breeding within the site or to mitigate loss of habitat for ground nesting birds and those which forage on arable land. Mitigation for loss of habitat which provides feeding areas for skylark and other farmland birds should be provided. *Officer response: It is considered that any impacts on skylark and other ground nesting*

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birds can be satisfactorily addressed through the Ecological Mitigation and Management Plan which would be secured by condition.

- Submission does not address impacts on any habitats and species within the adjoining land to the east which could be functionally linked to the designated sites. Cat predation on bird and reptile species may occur whilst a footpath through the land would provide access to dog walkers which may cause disturbance to ground nesting birds. *Officer response: As noted above, the Habitat Suitability Assessment concludes that the land to the east would not represent supporting habitat or functionally linked land largely on the basis that there is more suitable (i.e. largely flat) farmland available close to the designated site.*
- Artificial lighting may impact migratory birds by affecting foraging, migration, orientation, and daily timing of behaviour. Increased lighting also increases predation by enabling birds of prey to hunt later into the night. Submission does not propose mitigation such as the creation of a dark corridor along the eastern boundary. A wildlife sensitive lighting design scheme should be required by condition and provided at the reserved matters stage in the event planning permission is granted. *Officer response: A condition is recommended to secure a Lighting Design for Biodiversity which will address these comments.*
- Submission does not indicate biodiversity enhancement and the development should ensure that impacts to protected and priority species habitat are mitigated, and that habitat creation and enhancement is realistic and deliverable. Any habitats created to achieve a net gain which are situated within areas provided for residential amenity would be subject to recreational and site management pressures therefore further details on habitat creation and enhancement measures and site management should be provided. *Officer response: These matters will be addressed through the Biodiversity Enhancement Plan which will be secured by condition.*

Biodiversity

- 6.86. The application was submitted before Biodiversity Net Gain became a mandatory requirement. The KCC Ecology Officer notes that the proposals identify the potential to create new habitats around the site boundaries which could significantly improve the biodiversity value of the application site from its current predominantly low value arable use. It is advised that details of how the proposed development will compensate for the loss of important habitats such as hedgerows and deliver the required biodiversity net gain should be sought. A condition securing a Biodiversity Enhancement Plan is recommended.
- 6.87. Accordingly, it is considered that the proposal accords with Local Plan Policy DM 28 which requires that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.

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Habitat Regulations

- 6.88. The application site is located within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) and the Swale SPA, and Wetland of International Importance under the Ramsar Convention (Ramsar Site) which is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).
- 6.89. SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.
- 6.90. The proposal would result in up to 650 residential dwellings on the site which would be anticipated to result in impacts to the SPA and Ramsar sites from increased recreational disturbance. Due to the scale of the development there is insufficient scope to provide on site mitigation and in such circumstances off site mitigation is normally required by means of developer contributions at the rate of £328.27 per dwelling. The proposal would therefore give rise to a requirement for a contribution of £213,375.50 which would be secured through a Section 106 agreement. In accordance with the Conservation of Habitats and Species Regulations 2017, for completeness an Appropriate Assessment has been completed and is set out below.

Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017.

- 6.91. This Appropriate Assessment (AA) has been undertaken without information provided by the applicant.
- 6.92. The proposal therefore has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.
- 6.93. In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation satisfactory to the EA, the proposal is unlikely to have significant effects on these sites.
- 6.94. The recent (April 2018) judgement (People Over Wind v Coillte Teoranta, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, "it is not appropriate, at

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the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.” The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group.

- 6.95. However, in view of the scale of the development it is considered that and, in itself and in combination with other development, would not have an adverse effect on the integrity of the SPA, subject to appropriate mitigation measures.
- 6.96. Notwithstanding the above, NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG), and that such strategic mitigation should be in place before dwellings are occupied.
- 6.97. Due to the scale and location of the development it is not considered that there is scope to provide on-site mitigation such as an on-site dog walking area or signage to prevent the primary causes of bird disturbance, which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.
- 6.98. Based on the correspondence with Natural England, I conclude that off-site mitigation is required.
- 6.99. In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures can be implemented within the SPA from collection of the standard SAMMS tariff will ensure that these impacts will not be significant or long-term. I therefore consider that any adverse effect on the integrity of the SPA can be satisfactorily addressed through mitigation measures.

Transport and Highways

- 6.100. The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that development should:

“Actively manage patterns of growth to make the fullest use of public transport, walking and cycling and to focus development in locations which are sustainable.”

- 6.101. The NPPF also states that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

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- 6.102. Local Plan policy DM 6 promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/or safety standards are compromised proposals will need to mitigate harm.
- 6.103. The application seeks detailed approval of access arrangements and two vehicular accesses into the site are proposed. The primary access involves a new three-arm roundabout onto the A2500 located approximately 200m to the east of the Scocles Road/A2500 junction which would require a localised realignment of the A2500 approximately 25m northwards. The second access point to the development is proposed towards the north-west corner of the site from a new eastern arm to the Thistle Hill Way/Scocles Road roundabout. This would also serve as the main multi-modal connection to the existing Thistle Hill residential area to the west of Scocles Road which provides a range of services and amenities as identified at paragraph 1.4.
- 6.104. A footway will be provided on the eastern side of Scocles Road between the Thistle Hill Way roundabout and Elm Lane connecting to the footway recently delivered through the development at The Slips. Pedestrian and cycle paths would provide further links to the existing Thistle Hill development on the opposite side of Scocles Road. A footway is also indicated along the northern side of Lower Road along the site frontage. The KCC Highways Officer suggests that this should be provided as a shared use footway/cycleway which could then link with a shared use footway/cycleway proposed by the Council's Active Travel Co-ordinator through the Thistle Hill Community Woodland. This would run parallel to Lower Road and link with the existing footway/cycleway at the junction of Lower Road and Thistle Hill Way to promote active travel choices to Queenborough and Neats Court where a range of employment and retail is located. The Council's Active Travel Co-ordinator welcomes the provision of the footway/cycleway through the community woodland and an indicative cost of £132,000 has been calculated; however, a more accurate costing would involve detailed surveys and design work. The applicant has indicated a willingness, in principle, to meeting the cost of these works which would serve to mitigate some of the highways impacts of the scheme and promote active and sustainable travel choices. The infrastructure would be secured by condition or through a Section 106 agreement, subject to confirming the ownership of the land.
- 6.105. The applicant has developed a transport strategy for the scheme which has involved discussions with National Highways. Highways modelling has been undertaken to assess the impacts of the proposal on the wider highways network and inform mitigation proposals.
- 6.106. The Transport Assessment identifies that the proposed development will increase congestion on the wider highways network giving rise to a requirement for mitigation measures. Accordingly, works to increase capacity at road junctions are proposed as follows:

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- A2500 Lower Road / Barton Hill Drive roundabout – geometric changes to the entry radii on the A2500 Lower Road arms;
- A249 Sheppey Crossing / A2500 Lower Road roundabout – bypass lanes for the eastbound A249 onto the A2500 Lower Road roundabout and the southbound A249 movement from the A2500 Lower Road roundabout.

6.107. The application is accompanied by a Public Transport Strategy which identifies a preferred option involving a new local bus service with a route from the development to Tesco in Sheerness with a timetable aligned with train services to and from Sheerness Railway Station. KCC Highways advise that funding for the service should be secured for a minimum of 4 years to allow patronage to grow as the development builds out.

6.108. The Transport Assessment sets out a Transport Vision which includes the provision of a Car Club and remote working facilities within the Community Hub.

6.109. National Highways have considered the proposals, and in particular the impacts of the development upon the capacity of the A2500 Lower Road and the applicant's proposals to increase capacity on Lower Road. National Highways raise no objections to the proposal subject to conditions securing the following:

- Details of a 'Monitor and Manage Mitigation Strategy' which will set out a methodology to determine the actual traffic impact of the completed dwellings in terms of traffic flow changes, changes to road safety risk, and changes in traffic conditions (queue lengths and delays) on the SRN upon the occupation of the 250th dwelling. The information will be used to confirm that:
 - agreed mitigation for the A249/A2500 Roundabout remains necessary, or
 - an alternative scheme of mitigation for the A249/A2500 Roundabout is necessary and appropriate to safely accommodate the traffic generation of the remainder of the development beyond the 325th dwelling, or
 - the traffic generation of more than 325 dwellings can be safely accommodated by the existing A249/A2500 Roundabout layout and if so, the number of occupations that, on the basis of the monitoring data and up-to-date transport evidence, renders the agreed mitigation necessary. In this case, the monitoring process shall be repeated on the occupation of the Xth dwelling, X being the revised number of permitted occupations prior to mitigation becoming necessary minus 75, or
 - the traffic generation of the full development can be safely accommodated by the existing A249/A2500 Roundabout layout and therefore the agreed mitigation is no longer needed.
- Completion of improvement works to the A249/A2500 roundabout prior to the construction of the 326th dwelling;
- Approval of a full Travel Plan;

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- Construction Management Plan.

6.110. KCC Highways raise no objections to the proposals and provide the following:

- It is considered that the applicant has demonstrated that traffic associated with the proposed development can be accommodated on the highway network, and where there would be areas of congestion its impact can also be mitigated to provide overall betterment.
- It is noted that National Highways have requested a ‘monitor and manage’ condition to inform the delivery of highways improvements. Provided KCC is included in the review group to consider the impact on the local highway network and input into the approval, this is acceptable.
- Walking and cycling routes to link the development to the wider area and its amenities can be achieved and delivery of these will need to be coordinated with the phasing of the development.
- The proposed roundabouts onto Scocles Road and Lower Road are considered suitable for access to the development, though use of the Scocles Road roundabout should be restricted to serving a maximum of 300 dwellings only until the connection has been made through to the proposed Lower Road roundabout.
- A new bus service can be provided to cater for the development and enhance the offer to existing communities, and the developer would be expected to fund this in full for a period of 4 years.
- Financial contribution to meet the full cost of running the bus service for a minimum of 4 years and Sustainable Travel Vouchers for each dwelling should be secured through a Section 106 agreement.
- Conditions are requested to secure the following:
 - No dwelling to be occupied until the off-site highway works to the A2500 Lower Road / Barton Hill Drive roundabout have been constructed.
 - No more than 300 dwellings hereby approved shall be occupied until vehicle accesses onto Scocles Road and the A2500 Lower Road, and a spine road connecting the two have been constructed and opened for use.
 - Prior to the occupation of any dwelling accessed from Scocles Road, a footway measuring at least 2m in width shall be constructed on the eastern side of Scocles Road between Thistle Hill Way and Elm Lane.
 - Prior to the occupation of any dwelling accessed from Lower Road, a 3m wide shared use footway/cycleway shall be constructed alongside Lower Road and extending to Scocles Road.
 - Prior to the occupation of any dwelling accessed from Lower Road, off-site works to construct a 3m wide shared use footway/cycleway between the existing provision at the junction of Lower Road and Thistle Hill Way to the junction of Lower Road and Scocles Road shall be carried out.
 - Prior to the commencement of development a phasing plan and details of footway connections linking pedestrian routes within the development to

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Queen Anne Close and the southern boundary of Scocles Court shall be approved by the Local Planning Authority and constructed in accordance with the approved specification and phasing plan.

- Approval of a Construction Traffic Management Plan
- No dwelling to be occupied until vehicle parking and turning space has been provided, surfaced and drained to the satisfaction of the Local Planning Authority.
- Approval of full details of the electric vehicle charging and provision prior to occupation of each dwelling.
- Approval of cycle storage and provision prior to the occupation of each dwelling.
- Estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture to be constructed and laid out in accordance with details to be submitted and approved by the Local Planning Authority.
- Completion of relevant highways works to serve each dwelling prior to its occupation.
- Approval and implementation of a Travel Plan.

6.111. In view of the above, the proposal would sufficiently accord with the requirements of Local Plan Policy ST6 (The Isle of Sheppey area strategy) which requires that larger scale development proposals will, as appropriate, be well located in respect of the most accessible parts of the Island to both car and public transport and, where appropriate, bring forward improvements to the A2500 Lower Road. It will also accord with Policy DM6 which requires improvements to the highways network where new development would result in traffic generation in excess of its capacity.

6.112. It is further considered that the proposal would sufficiently address the NPPF requirement to promote sustainable patterns of development and actively manage patterns of growth to make the fullest use of public transport, walking and cycling. It has been demonstrated that the proposal would not result in unacceptable impacts on highway safety or severe residual cumulative impacts on the road network which the NPPF states would warrant refusal of planning permission.

Public Rights of Way

6.113. The KCC PRoW and Access Officer advises that there are no PRoWs directly affected within the site, however there are important routes adjacent to the site which provide access to local facilities, amenities and the wider PROW network. No objections are raised to the application; however, a financial contribution of £48,925 (index linked) is requested to mitigate the increased use of the PROW network.

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- 6.114. Public Footpaths ZS9 and ZS10 run west from Scocles Road, immediately opposite the development site, provide direct links to the Community Hospital and the Thistle Hill Academy School, other community facilities and onward connectivity. £43,300 is sought to fund surface improvements, culvert repairs and a replacement 10m bridge to public footpath ZS9 and £5,625 is sought to fund surface improvements to public footpath ZS10.
- 6.115. The KCC PRoW and Access Officer advises that consideration should be given to pedestrian crossings over Scocles Road to connect the development directly to footpaths ZS9 and ZS10, with signed links out of the site to aid this direct connectivity. Safety concerns regarding the increase of vehicular traffic on Scocles Road would be raised if no crossings were in place. These crossings will be secured through condition No. 29.
- 6.116. KCC PRoW and Access consider there would also be a negative impact on the landscape and visual amenity of the wider network, ZS5, ZS6, ZS8, and ZS31. There is also the route of the new National Trail, the England Coast Path, on the mainland to the south. The mitigation suggested within the application of planting giving a low/neutral effect on the wider PROW network in ten years' time would not address the impact sufficiently. The developer contributions sought would mitigate this loss of landscape and visual amenity if planning permission were granted.

Car and Cycle Parking

- 6.117. The Swale Car Parking SPD includes recommended residential car parking standards. Details of car parking to individual units will be assessed at reserved matters stage. However, the indicative Masterplan provides sufficient details of car parking to demonstrate that a reserved matters scheme could be brought forward which provides adequate car parking provision to comply with the recommended standards. Accordingly, the proposal can comply with Local Plan Policy DM 7 requirement for compliance with the Swale Vehicle Parking SPD.
- 6.118. The application advises that cycle parking will be provided in accordance with policy requirements and this will be addressed at the detailed application stage. It is anticipated that cycle parking will be provided within sheds/stores to the houses and within dedicated facilities within the flatted blocks. Accordingly, the proposal can comply with the requirement of Policy DM 7 to provide cycle parking facilities of an appropriate design and in a convenient, safe, secure and sheltered location.

Air Quality

- 6.119. The importance of improving air quality in areas of the borough has become increasingly apparent over recent years. Legislation has been introduced at a European level and a national level in the past decade with the aim of protecting human health and the environment by avoiding, reducing or preventing harmful concentrations of air pollution.

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- 6.120. The NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing new/existing development from contributing to or being put at unacceptable risk from, or being adversely affected by, inter alia, unacceptable levels of air pollution. It also requires the effects of air pollution and the potential sensitivity of the area to its effects to be taken into account in planning decisions.
- 6.121. The Planning Practice Guidance on Air Quality states that *“whether or not air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to generate air quality impact in an area where air quality is known to be poor. They could also arise where the development is likely to adversely impact upon the implementation of air quality strategies and action plans and/or, in particular, lead to a breach of EU legislation.....”*.
- 6.122. The application is accompanied by an Air Quality Assessment (AQA) which considers potential air quality impacts associated with the construction and operation of the development. The AQA identifies that there is potential for air quality impacts as a result of construction stage dust emissions which can be satisfactorily mitigated through good practice measures. Operational stage air quality impacts from traffic exhaust emissions were predicted to be negligible at all sensitive receptor locations. Accordingly, the AQA identifies that air quality is not considered a constraint to the proposed development.
- 6.123. The AQA has been reviewed by the Council’s Environmental Health Officer who raises no objections to the proposed development in terms of air quality subject to a condition securing a Construction Method Statement setting out construction stage dust control measures. Accordingly, the proposed development is considered to satisfy Local Plan Policy DM 6 which requires that development proposals integrate air quality management and environmental quality into the location and design of, and access to development and in so doing, demonstrate that proposals do not worsen air quality to an unacceptable degree.

Open Space, Sport and Recreation

- 6.124. Policy Local Plan Policy CP7 requires developments to promote the expansion of Swale’s natural assets and green infrastructure. Policy DM17 of the Local Plan sets out that new housing development should make provision for appropriate outdoor recreation and play space proportionate to the likely number of people who will live there. Policy DM17 sets out various open space typologies and the amounts of space that would be required for residential development. The Council’s Greenspaces Manager has confirmed that there will be no requirement for open space, sport and recreation arising from the proposed extra care housing having regard to the profile of the residents and the trip free and safe green space which serve the extra care block. The table below compares the proposal to the open space requirements.

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Typology	Policy DM17 requirement (ha per 1,000 person)	Scheme requirement (ha)	Proposed (ha)	Difference (ha)
Parks and gardens	1.11	1.47	0.87	-0.60
Natural and semi natural greenspace	4.36	5.81	6.75	+0.94
Formal outdoor sport	1.09	1.45	0.90	-0.55
Amenity Greenspace	0.45	0.60	0.70	+0.10
Provision for children and young people	0.24	0.32	0.13	-0.19
Formal Play facilities			on site	
Allotments	0.2	0.27	0.36	+0.09
Total		9.92	9.71	-0.21

6.125. As the table above shows, there is a shortfall in the parks and gardens typology, provision for children and young people and the formal outdoor sport provision. There is a surplus of natural and semi-natural green space, amenity green space and allotments. It is noted that residents of the site would benefit from the Thistle Hill Community Woodland to the west of the site.

6.126. The Council's Open Spaces and Play Area Strategy sets out a requirement for financial contributions towards off-site formal sports facilities and off-site play/fitness facilities. In view of the on-site provision, details of which would be secured at reserved matters stage, the Council's Green Spaces Manager has advised that financial contributions will not be sought, subject to securing sports facilities which meet Sport England specifications (condition 50).

6.127. The overall provision of open space and sport and recreation facilities within the scheme is close to meeting the requirements set out in the Council's Open Spaces and Play Area Strategy, albeit there are some shortfalls and surpluses amongst the typologies. The Council's Green Spaces Manager confirms that no objections are raised in terms of open space, sports and recreation provision. Therefore, having regard to the overall on-site provision as well as the proximity of existing public open space, the proposal is acceptable in terms of open space and is therefore in accordance with Policy DM 17 of the Local Plan.

Community Infrastructure

6.128. The National Planning Policy Framework attaches importance to ensuring that a sufficient choice of school places are available to meet the needs of existing and

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new communities. This is reflected in Policies CP 5 and CP6 of the Local Plan, which set out that provision shall be made to accommodate local community services, social care and health facilities within new developments.

6.129. It is critical that necessary social and other infrastructure to support the future population occupying the site is delivered in a time frame that ensures infrastructure is in place when it is required.

6.130. As with any planning application, the request for financial contributions needs to be scrutinised in accordance with Regulation 122 of the Community Infrastructure Regulations 2010 (which were amended in 2014). These stipulate that an obligation can only be a reason for granting planning permission if it is:

- Necessary
- Related to the development
- Reasonably related in scale and kind.

6.131. The following planning obligations would be necessary to mitigate the impact of the development and make it acceptable in planning terms. The obligations have been identified and assessed by Officers to comply with the Regulations (as amended).

Requirement	Value	Towards
Ecology		
SAMMS payment	£328.27 per dwelling	North Kent Strategic Access Management and Monitoring Strategy.
Education		
Secondary Education Contribution	£2,814,547.45	Towards additional Secondary School places to be provided at the new NW Sittingbourne allocated (MU1) site and/or at the Borden or Highsted Grammar schools.*
Special Educational Needs (SEND) Contribution	£559.83 per applicable house and £139.96 per applicable flat**	Special Education Needs (SEND) contribution to be applied towards additional places in Swale district.
Special Education Needs (SEND) School	£273.87 per applicable house and £67.22 per applicable flat	Proportionate financial contribution towards the provision of a new SEND school site.
Community Learning	£22,236.50 (£34.21 per dwelling)	Financial contribution towards additional equipment and resources at Adult Education Centres including at Sheerness

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		and outreach provision to increase capacity in the service.
Community		
Integrated Children's Services	£41,468.00 (£74.05 per dwelling - excluding extra care units)	Financial contribution additional equipment and resources for the Integrated Children's Services in Swale including outreach provision.
Library Service	£40,709.50 (£62.63 per dwelling)	Financial contribution towards additional resources, equipment and book stock (including reconfiguration of space) at local libraries serving the development including at Minster.
Adult Social Care	£117,572.00 (£180.88 per dwelling)	Financial contribution towards specialist care accommodation, assistive technology systems and equipment to adapt homes, adapting community facilities, sensory facilities, and Changing Places within Swale.
Waste		
Refuse	£126,184.50 (£194.13 per dwelling)	Financial contribution towards additional capacity at the Sheerness or Sittingbourne Household Waste Recycling Centre and Sittingbourne Waste Transfer Station.
Refuse and Recycling Bins	<u>Each house</u> 180ltr green bin for refuse £51.20 240ltr blue bin for recycling £51.20 23ltr food bin £11.90 5ltr food caddy £6 <u>Each 5 Flats with a block</u> 1100ltr refuse - £497 1100ltr recycling - £497 140ltr food - £45.20 <u>Each flat</u> 5ltr food caddy £6	Bin provision

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Health care		
NHS (Integrated Care Board)	£675,792.00	Financial contribution towards refurbishment, reconfiguration and/or extension of existing general practice and other healthcare premises covering the area of development or new premises for general practice or healthcare services provided in the community in line with the healthcare infrastructure strategy for the area.
Highways and transportation		
Pedestrian links	Best endeavours to secure Section 278 works with highways authority	Pedestrian links across Scocles Road to Scocles Court / Scocles Farm and Queen Anne Close
Footway/cycleway	£132,000 (estimated) subject to more detailed survey	Contribution towards construction of a multi-user path between Scocles Road and Thistle Hill Way, through the Thistle Hill Community Woodland running parallel to Lower Road***
Bus Service	Best endeavours to secure service with local operator	Financial contribution to meet the full cost of running the bus service stated in the Public Transport Strategy for a minimum of 4 years
Sustainable Travel Vouchers	£350 per dwelling	Sustainable Travel Vouchers for each dwelling to the value of £350 to be used on either bus travel, train travel or the purchase of a bicycle.
Public Rights of Way (PRoW)		
Public Rights of Way	£48,925.00 (Index linked)	Mitigation of increased use of PRoW network and impacts on landscape and visual amenity of the wider network.
Affordable Housing		
Affordable housing	Provision of 25% affordable housing (Option A) or 41.5% affordable housing (Option B)	Affordable housing, including extra care housing.
Monitoring		

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Monitoring fee	Amount to be agreed with SBC Legal Services and KCC Infrastructure based upon the obligations being secured	Contribution to cover the cost of monitoring the delivery of various planning obligations
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*Kent County Council in its capacity as education provider, has a duty to ensure that adequate school places are provided to accommodate current and future projections for primary school and secondary needs. Currently there is no Primary school requirement.

**Applicable excludes 1 bed units of less than 56sqm (GIA) and the extra care housing.

*** Subject to confirmation of land ownership this could potentially be dealt with through condition No. 27 securing off-site works to deliver the multi-use path.

6.135. Subject to securing the obligations, the application would accord with Policies CP5, CP6, DM8, DM17 and DM28 of the Local Plan.

Flood Risk, Drainage and Surface Water

6.136. The NPPF states that local planning authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. This is reflected in Policy DM 21 of the Local Plan.

6.137. The application site lies within Flood Zone 1, meaning it is an area with a low probability of river or sea flooding. Planning Practice Guidance confirms that the aim is to steer new development to Flood Zone 1. In respect of the Flood Risk Vulnerability Classification residential dwellings are classified as 'more vulnerable'. Within Flood Zone 1, Table 3 of the Planning Practice Guidance confirms that 'more vulnerable' uses in Flood Zone 1 are appropriate and an exception test is not required. As the application site is greater than 1 ha a Flood Risk Assessment (FRA) is required.

6.138. The application is accompanied by a Flood Risk Assessment and Outline Drainage Strategy which proposes surface water drainage measures including water butts to individual properties, swales and 5 attenuation ponds which will discharge into the adjacent ditch network at greenfield run-off rates.

6.139. KCC Drainage have reviewed the proposals and raise no objections to the proposals subject to conditions.

6.140. Southern Water raise no objections in relation to surface water drainage subject to an informative relating to maintenance and/or adoption by Southern Water of SUDS infrastructure.

6.141. Lower Medway Internal Drainage Board advise that they have responsibility for maintenance of the watercourses that will receive the surface water discharge from the site. The Board have made representations which include the following points:

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- Adequate access to the watercourses for maintenance purposes must be maintained.
- Access from Scocles Road will require a watercourse to be bridged over and the design principles should be agreed with the board.
- The Board would expect habitat compensation and biodiversity net gain of 10%.
- The outfall structures to the watercourses will require land drainage consent which will be conditional upon a Surface Water Development Contribution Fee.
- SuDS features for surface water storage are welcomed as they also provide pollution control; amenity; and habitat. Above ground storage is encouraged as it is easier to maintain.
- Detailed surface water drainage proposals with maintenance and management proposals as well as flood resilience measures along the watercourse corridors and land low spots should be secured by condition.

6.142. In view of the above it is anticipated that the proposals will satisfy the requirements of Local Plan Policy DM21 to include sustainable drainage systems to restrict runoff to an appropriate discharge rate, maintain or improve the quality of the receiving watercourse, enhance biodiversity and amenity and increase the potential for grey water recycling. It is therefore considered that the proposals are in accordance with Policy DM 21 of the Local Plan and the NPPF.

Contamination

6.143. The NPPF states that local planning authorities should ensure that the site is suitable for its new use taking account of various matters, including pollution arising from previous uses.

6.144. The application is accompanied by a Desk Study Report which provides a geo-environmental risk assessment. The study concludes that the risk to human health from any ground contamination is negligible and recommends ground investigation works prior to the commencement of development.

6.145. The Council's Environmental Health Officer has reviewed the Desk Study Report and advises that it is satisfactory. A watching brief condition is recommended to deal with any unforeseen ground contamination during construction works.

6.146. Accordingly, the proposals are considered acceptable in relation to contamination and are therefore in accordance with the Local Plan and the NPPF.

Living Conditions*Existing residents*

6.147. The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.

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6.148. The application seeks outline planning permission and accordingly the masterplan layout is indicative only and subject to change at the detailed stage. However, the indicative masterplan layout indicates that the proposed development could be accommodated within the site without any undue harm to the residential amenities of the occupants of nearby dwellings by reason of overlooking, loss of daylight and/or sunlight, visual impact and noise and disturbance.

Future residents

6.149. New development is expected to offer future occupiers a sufficient standard of accommodation and to have regard to the Government's minimum internal space standards for new dwellings.

6.150. As noted above, the masterplan layout is indicative only. However, the layout demonstrates that 650 residential dwellings could be satisfactorily accommodated on the site whilst providing adequate separation between dwellings to ensure adequate outlook and privacy for occupants of the dwellings.

6.151. Approval of the detailed internal layouts of the proposed accommodation is not sought at this stage. However, the indicative masterplan is considered to demonstrate adequate space to accommodate dwellings which would provide an appropriate standard of internal accommodation subject to details to be submitted at reserved matters stage.

6.152. The indicative masterplan layout demonstrates that adequate private amenity space in the form of rear gardens could be provided for the proposed houses. It is recommended that relevant permitted development rights are removed to ensure that adequate private amenity space to the dwellings is maintained.

6.153. The indicative masterplan indicates that the site could accommodate a development which is acceptable in terms of the living conditions of both future occupiers and the occupiers of existing nearby residential properties. The proposal is therefore considered to be in accordance with the Local Plan and the NPPF.

Sustainability / Energy

6.154. Policy DM 19 of the Local Plan requires development proposals to include measures to address climate change. Details of sustainable design and construction measures to minimise environmental impacts can be secured at detailed stage and may include measures such as electric vehicle charging points (provision of one per dwelling); solar panels; passive energy measures; and/or low NOx boilers as examples.

6.155. Non-residential buildings under 1000m² (GIA) within the scheme will be expected to achieve BREEAM 'Good' standard or equivalent as a minimum whilst non-

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residential developments over 1,000m² (GIA) should achieve BREEAM 'Very Good'. Compliance with the relevant BREEAM standards can be secured by condition.

- 6.156. The Council's Climate Change Officer notes that there is no reference to sustainability in any of the relevant documents. However, it is noted that the application seeks outline planning permission and further detail would be anticipated at reserved matters stage. It is also noted that the Future Homes standard, which will become mandatory in 2025, would ensure that the development achieves appropriate standards in terms of energy efficiency and carbon reduction. Conditions are requested to secure sustainable design and energy efficiency measures and details of measures to reduce water consumption.
- 6.157. In view of the above the proposed development is considered acceptable in relation to sustainability and energy and is in accordance with Local Plan Policy DM 19.

Noise

- 6.158. The NPPF states that planning decisions should ensure that noise from new development is mitigated and potential adverse impacts are reduced to a minimum.
- 6.159. The application is accompanied by an Acoustic Assessment which identifies the need for certain mitigation measures to be incorporated into the development and recommends suitable façade constructions and ventilation elements that will need to be provided. The Council's Environmental Health Officer advises that compliance with the recommendations in the assessment should be secured through condition. The final detailed housing layout proposed will necessitate a further acoustic review to reflect any changes made which should also be secured through the condition (No. 49).
- 6.160. In view of the above the proposed development is considered acceptable in terms of noise and in accordance with the provisions of the NPPF.

Other matters

- 6.161. The site is unencumbered by mineral designations and KCC have made no comments in relation to minerals.
- 6.162. The application will need to accord with the latest Secure by Design requirements, and this will need to be appropriately detailed in the reserved matters submission documents.
- 6.163. In terms of water supply and sewerage, Southern Water note that the proposed development will lie over an existing 315mm public water distribution main and 12 inch water trunk main, which will not be acceptable to Southern Water. The exact position of the public apparatus must be determined before the layout of the proposed development is finalised. It might be possible to divert the water main, so long as this

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would result in no unacceptable loss of hydraulic capacity, and the work was carried out at the developer's expense to the satisfaction of Southern Water under the relevant statutory provisions. The applicant has advised that the water mains have been identified from the outset by the design team and some diversion will be necessary and the extent of this will be determined at detailed design stage. It is envisaged that the diversion will be made into the landscaping buffer and in other publicly accessible areas of the site such as road infrastructure to ensure they are maintainable post adoption by the relevant bodies.

- 6.164. Southern Water have requested conditions and informatives relating to the diversion of the water main, water supply and delivery of sufficient sewerage infrastructure to serve the development.

The Planning Balance

- 6.165. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. Under s70(2) of the Town and Country Planning Act 1990, the decision-maker needs to have regard to the provisions of the development plan and any other material considerations.
- 6.166. The Council can demonstrate a 4.1 year supply of housing. In accordance with footnote 8 to paragraph 11 of the NPPF, the most important policies for determining this application cannot be considered up-to-date, and the 'Tilted Balance' in favour of sustainable development should apply to decision making. Only if the adverse impacts of the proposal significantly and demonstrably outweigh the benefits, should planning permission be refused. It is therefore necessary to consider the benefits and disbenefits of the proposal in order to determine whether there are adverse impacts which would justify a refusal of planning permission.
- 6.167. It is considered that the proposal will result in disbenefits arising from conflict with Local Plan Policies ST1, ST3, ST 6 and DM 24.
- 6.168. Officers consider that the proposed development would deliver the following benefits:
- Housing and affordable housing
 - Infrastructure needed to support the new communities including community facilities
 - Employment and economic activity
 - Open space and sports facilities
 - Ecology and biodiversity
 - Design and appearance
 - Sustainability and carbon reduction
 - Transport
 - Local finance considerations.

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Benefits

Housing and affordable housing

- 6.169. The erection of 650 dwellings, including 41.5% affordable housing to address a pressing need, would contribute towards addressing the lack of 5-year housing land supply within the borough. Given the Framework's general imperative to boost the supply of housing, this is an important factor weighing in favour of the application. As set out at paragraph 6.31-6.32 above, the delivery of 14.5% affordable housing will not be firmly secured through the Section 106 agreement therefore in acknowledgement of a degree some risk around its delivery significant weight is afforded to the benefit arising from this proportion of the affordable housing. However, overall, it is considered that the delivery of housing and affordable housing is a benefit which should be afforded **substantial weight**.

Infrastructure needed to support the new communities including community facilities

- 6.170. The need for the proposed community uses is only driven by the future population that could be expected to be living on the site (if approved). While the proposed community uses may provide a closer option for some existing nearby residents, they are primarily necessary to mitigate the impacts of the proposed development. If they were not provided on site, planning obligations would need to be secured to ensure additional capacity was provided elsewhere to meet the needs of the development. Without the mitigation, the housing proposals would be unacceptable. It is therefore considered that the community facilities should be afforded **limited weight** in the planning balance.

Employment and economic activity

- 6.171. New residents who will use local services and facilities and facilitate potential future growth opportunities which meet the economic and social objectives of sustainable development at paragraph 8 of the NPPF.
- 6.172. The development would bring forward jobs and spending during the construction phase. Paragraph 81 of the NPPF advises that significant weight should be placed on the benefit a scheme offers in supporting economic growth and productivity; however, this weight is moderated on the basis that these benefits will be limited to the construction phase. Overall, **moderate weight** is afforded to the employment and economic activity benefits of the development.

Open space and sports facilities

- 6.173. The provision of public open space and recreation areas within the proposed development is a normal planning requirement of good place-making and to mitigate impacts of the development and is therefore attributed **limited weight** in the planning balance.

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Ecology and Biodiversity

- 6.174. Whilst landscaping is a reserved matter, the indicative plans and documents show that the emerging proposals would provide suitable landscaping and planting in and around the site (subject to details being secured at the reserved matters stage) which would provide ecological and biodiversity enhancements. This is a normal planning requirement and is therefore attributed **limited weight** in the planning balance.

Design and appearance

- 6.175. As an Outline application, matters of layout, scale, appearance and landscaping are not for determination. However, the application includes an indicative Masterplan layout and a Design and Access Statement which demonstrate how the site could be developed to deliver a high quality and distinctive development and **limited weight** is afforded to this benefit.

Sustainability and carbon reduction

- 6.176. The proposed development would comply with Local Plan policy and Building Regulations requirements in respect of sustainability and energy consumption which would be a normal planning and Building Regulation requirement. Accordingly, **limited weight** can be afforded to this benefit.

Transport

- 6.177. The proposals involve off-site highways improvements and the implementation of a new local bus route with funding provided by the developer during the initial years.
- 6.178. The transport improvements are primarily required to mitigate the impacts of the development on the local road network. However, the improvements will also deliver wider public benefits in the form of more efficient highways infrastructure and additional bus services between the site and Sheerness. Accordingly, **moderate weight** can be afforded to these benefits.

Economic benefits

- 6.179. The Town and Country Planning Act 1990 sets out general considerations in the determination of applications states the following:

“In dealing with an application the authority shall have regard to

- (a) the provisions of the development plan, as far as material to the application,*
(b) any local finance considerations, as far as material to the application, and
(c) any other material considerations.”

- 6.180. The application proposes 650 new dwellings with associated Council tax being received from occupiers and able to be used by the Borough to carry out its statutory

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functions. The funding is needed to mitigate the impacts of the development and **limited weight** is afforded to this benefit in the planning balance.

Heritage impacts

- 6.181. As is set out in the Heritage section of this report, the development would result in harm to the setting of the Grade II listed Scocles Court. The level of harm is considered to amount to a medium level of ‘less than substantial’ harm. Even in cases where the heritage harm falls in the ‘less than substantial’ category, as is the case here, this still requires being given great weight and importance in the planning balance.
- 6.182. Officers have been mindful of the statutory duty to do no harm and have placed great weight and importance on the fact that less than substantial harm would be caused to the designated heritage asset.
- 6.183. The proposal would bring forward public benefits identified in this section including the delivery of housing which is afforded substantial weight. The proposal would bring forward employment and economic benefits and transport improvements which are public benefits afforded moderate weight. The further benefits identified above are also considered to represent public benefits which would be afforded limited weight.
- 6.184. In light of the benefits identified, in particular the substantial benefit arising from the delivery of housing, and given the medium degree of less than substantial harm to the Grade II listed Scocles Court it is considered that the public benefits are sufficient to outweigh the heritage harm. Officers are therefore of the view that the proposals are in accordance with Local Plan Policies CP8 and DM32 and the provisions of the NPPF.
- 6.185. In considering the impact of this proposal on designated heritage assets, officers have had regard to the Council’s obligations pursuant to s16, s66 and s72 of the Planning (Listed Building and Conservation Areas Act) 1990.

Planning balance – conclusion

- 6.186. The above assessment identifies a series of benefits which weigh in favour of the proposal. In particular, the delivery of 650 units of housing including 41.5% affordable housing is considered to be a benefit which can be afforded substantial weight overall, noting that significant weight afforded to 16.5% of the affordable housing as set out above. The benefits identified above are considered to substantially outweigh the identified moderate degree of harm which will arise from conflict with Local Plan Policies ST 1, ST 3, ST 6 and DM 24. Accordingly, the proposal is considered acceptable, and it is recommended that planning permission be granted subject to conditions and the prior completion of a Section 106 agreement.

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RECOMMEDATION – GRANT PLANNING PERMISSION subject to conditions and the prior completion of a Section 106 agreement

CONDITIONS**1. Reserved Matters**

Details relating to the appearance, landscaping, layout, and scale of the proposed dwelling(s) (hereinafter called the 'reserved matters') shall be submitted to and approved by the Local Planning Authority before any development is commenced and the development shall be carried out as approved.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. Time Limit – Reserved Matters

The first application for approval of reserved matters referred to in Condition (1) must be made to the local planning authority no later than the expiration of 12 months beginning with the date of the grant of outline planning permission.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

3. Reserved Matters

The first phase of development to which this permission relates must be begun not later than the expiration of 12 months from the final approval of the relevant reserved matters.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

4. Phasing

No development shall take place until a Phasing Plan, which shall include justification for the proposed Phases, demonstrate the timescale for the delivery of the development and include the order of the delivery of the proposed phases, has been submitted to and approved in writing by the local planning authority. The phasing of the development shall not be carried out otherwise than in accordance with the approved plan.

All reserved matters submissions shall be in accordance with the Phasing Plan as approved by the Local Planning Authority, unless otherwise agreed with the Local Planning Authority. Any references to a Phase of the development within this permission shall be taken to be a reference to phases as identified within the Phasing Plan submitted under this condition.

Reason: To ensure the development proceeds in a satisfactory manner. The objectives and purposes of this condition are such that it is required to be

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complied with before commencement. As such, those objectives and purposes would not be met if expressed other than as a pre-commencement condition.

5. Approved Plans

The development hereby permitted shall be carried out in accordance with the following approved drawings and documents:

SCP/220758/D10 Rev. E Potential Traffic Improvements at A249/A500 Roundabout
SCP/220758/D09 Rev. D Potential Segregated Northbound Lane at A249/A500 Roundabout
SCP/220758/D08 Rev. E Potential Segregated Southbound Lane at A249/A2500 Roundabout
SCP/220758/D11 Assessment of Land Ownership Impact
03/001 Proposed Access Strategy Access Road onto Scocles Road 35m ICD Roundabout
03/002 Proposed Access Strategy Main Access onto A2500 40m ICD Roundabout
03/003 Rev. B Proposed Access Strategy Potential A249/A2500 Roundabout Improvement Option
Parameters Plan BG/SRM/PP/01.

Reason: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with this application.

6. Levels

Any reserved matters application(s) which covers the matter of 'scale' shall include a detailed levels survey of the site and cross sections showing:

- Existing ground levels on site (spot heights) including a datum point that is located off site. Levels should be Above Ordnance Datum (AOD).
- The level of the roads outside the site. (AOD)
- The proposed levels on site following completion of the development (for each existing height a proposed height should be identified).
- The location and type of any retaining structures needed to support ground level changes.
- Finished Floor Levels for proposed buildings.
- The information supplied should clearly identify if land levels are being raised or lowered.

Reason: Understanding level changes and finished floor levels is necessary to ensure that the work is carried out at suitable levels in the interests of the character and appearance of the area, to safeguard wider views, and protect residential amenities.

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7. Landscaping

Any reserved matters application(s) which covers the matter of 'Landscaping' shall include:

- Plans, drawings, sections, and specifications to explain full details of the hard and soft landscaping treatment and works including: planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity, where possible), plant sizes, numbers and densities where appropriate, materials (size, type and colour), proposed drainage arrangements, children's play equipment, street furniture, lighting columns, private and communal areas, open spaces, edges, boundary treatments, public rights of way and roads;
- Tree planting details (including street trees and hedge rows) and specification of all planting in hard and soft landscaped areas, to include provision for advanced planting to the northern and southern boundary of the site.
- The open space details shall demonstrate that there will be no Sustainable Urban Drainage Systems located within private gardens or play areas.
- Details of the programme for implementing and completing the planting.
- An Arboricultural Method Statement produced in accordance with BS5837.
- A Tree Protection Plan showing trees that would be retained and the arrangement of temporary protection measures that would be installed prior to the commencement of development.
- A methodology for any special construction that is required to ensure the success of proposed tree retention.
- A detail for any temporary construction measures, products or construction methods that are specified.
- Details of a proposed watching brief, monitoring or reporting.
- Significant landscaping provided within the core of the site and internal streets and roads are tree lined.

Reason: In order that the Reserved Matters Applications can be properly considered and assessed, in the interests of proper planning.

8. Landscaping

All new planting, seeding or turfing comprised in the landscaping reserved matters shall be carried out in the first planting and seeding seasons following the completion of any particular phase. Any trees or plants, including retained trees and shrubs identified in the landscaping reserved matters, which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

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9. Secure by Design

The details submitted pursuant to condition (1) (the reserved matters) shall include details demonstrating how the development meets the principles of 'secure by design'.

Reason: In the interests of crime prevention and safety

10. Limits

The quantum of residential units to be constructed for the development hereby approved shall be limited to a maximum of 650 units.

Reason: To ensure that the development is carried out in accordance with the submitted with the application.

11. Detailed Masterplan, Design Code and Landscape Strategy

The first application for Reserved Matters for the development hereby permitted shall be accompanied by a site wide detailed Masterplan with associated Design Code and a site-wide Landscape Strategy incorporating biodiversity enhancement measures and a Landscape Management Plan. The Masterplan and Design Code shall be informed by:

- The National Design Guide (Amended 2021 to align with National Model Design Code and Guidance Notes for Design Codes);
- The National Model Design Code (2021);
- Any other relevant Design Guide or Code that is adopted at the time; and
- A Design Review Outcome Report following a design review process involving the Local Planning Authority carried out by Design South-East or another appropriate design review panel that has been approved in writing by the Local Planning Authority.

The development shall be carried out in accordance with the approved Masterplan, Design Code and Landscape Strategy.

Reason: In order to ensure the development delivers a high-quality design, landscaping and place making.

12. Compliance Statement

Any applications for Reserved Matters shall be accompanied by a Masterplan and Design Code Compliance Statement which demonstrates how that phase of the development has been brought forward in accordance with the approved Masterplan and Design Code pursuant to Condition no. 11 (above) of this permission.

Reason: In order to ensure the development delivers a high-quality design and place making.

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13. Details of Materials

No development above construction of foundations, in a particular phase, shall commence until full details/samples of the materials to be used in the construction of the external surfaces of the buildings in that phase have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details/samples.

Reason: In order to further secure good design and a satisfactory appearance and so as not to delay construction the condition is triggered once development has reached slab level.

14. Archaeological Works

To assess and mitigate the impacts of development on significant archaeological remains:

- A. Prior to the commencement of development the applicant (or their agents or successors in title) shall secure and have reported a programme of archaeological field evaluation works, in accordance with a specification and written timetable which has been submitted to and approved by the local planning authority.
- B. Following completion of archaeological evaluation works, no development shall take place until the applicant or their agents or successors in title, has secured the implementation of any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the local planning authority.
- C. The archaeological safeguarding measures, investigation and recording shall be carried out in accordance with the agreed specification and timetable.
- D. Within 6 months of the completion of archaeological works a Post-Excavation Assessment Report shall be submitted to and approved in writing by the local planning authority. The Post-Excavation Assessment Report shall be in accordance with Kent County Council's requirements and include:
 - a) a description and assessment of the results of all archaeological investigations that have been undertaken in that part (or parts) of the development;
 - b) an Updated Project Design outlining measures to analyse and publish the findings of the archaeological investigations, together with an implementation strategy and timetable for the same;
 - c) a scheme detailing the arrangements for providing and maintaining an archaeological site archive and its deposition following completion.
- E. The measures outlined in the Post-Excavation Assessment Report shall be implemented in full and in accordance with the agreed timings.

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Reason: To ensure that features of archaeological interest are properly examined and recorded in accordance with Local Plan policies and the National Planning Policy Framework. These details are required prior to the commencement of development in order to ensure that the works do not result in harm to features of archaeological interest.

15. Contaminated Land

If during construction/demolition works evidence of potential contamination is encountered, works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed.

Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of;

- a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.
- b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.
- c) If no contamination has been discovered during the build then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of pollution from previously unidentified contamination sources at the development site.

16. Construction Method Statement

Prior to the commencement of the development a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The document shall be produced in accordance with the Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites, the Control of Dust from Construction Sites (BRE DTi Feb 2003) and the Institute of Air Quality Management (IAQM) 'Guidance on the Assessment of Dust from Demolition and Construction'. The construction of the development shall then be carried out in accordance with the approved methodology.

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Reason: To protect the amenity of nearby occupiers and prevent pollution. The objectives and purposes of this condition are such that it is required to be complied with before commencement. As such, those objectives and purposes would not be met if expressed other than as a pre-commencement condition.

17. Construction Surface Water Management Plan

Prior to the commencement of development, a Construction Surface Water Management Plan (CSWMP) shall be submitted to and approved by the Local Planning Authority. The CSWMP shall detail how surface water and storm water will be managed on the site during construction is submitted to and agreed by the local planning authority. The plan should outline the phases of construction showing where and when drainage features will be installed and how runoff will be managed, to minimise flood risk and water quality impacts on site and to the surrounding areas.

Reason: In the interest of managing flood risk during the construction stage. The objectives and purposes of this condition are such that it is required to be complied with before commencement. As such, those objectives and purposes would not be met if expressed other than as a pre-commencement condition.

18. Hours of Construction Activity

No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:

- Monday to Friday 0730 - 1800 hours, Saturdays 0800 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: To protect the amenity of nearby occupiers.

19. Impact Piling Hours of Activity

No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor on any other day except between the following times:-

- Monday to Friday 0900 - 1700 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: To protect the amenity of nearby occupiers.

20. Ecological Mitigation and Management Plan

Prior to the commencement of development (including site clearance) an Ecological Mitigation and Management Plan (EMMP) shall be submitted to and approved in writing by the Local Planning Authority. The EMMP shall be based on the recommendations in Section 5 of the Preliminary Ecological Appraisal by

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Adonis Ecology Ltd. Dated 20th April 2022. It shall provide detailed avoidance and mitigation measures to be carried out on site, together with a timetable for implementation. The development shall be carried out in accordance with the approved details. The EMMP shall include the following:

- a) Risk assessment of potentially damaging site clearance and construction activities;
- b) Further surveys required to inform the measures within the EMMP;
- c) Extent and location of proposed mitigation measures, shown on appropriate scale maps and plans;
- d) Identification of 'biodiversity protection zones';
- e) Practical measures (both physical measures and sensitive working practises) to avoid or reduce impacts during site clearance and construction (may be provided as a set of method statements);
- f) The location and timing of sensitive works to avoid harm to biodiversity features;
- g) The times during construction when specialist ecologists need to be present on site to oversee works;
- h) Responsible persons and lines of communication;
- i) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- j) Use of protective fences, exclusion barriers and warning signs.

The approved EMMP shall be adhered to and implemented throughout site clearance and the construction period in accordance with the approved details.

Reason: To ensure that any adverse ecological impacts of development activities are avoided or suitably mitigated. The objectives and purposes of this condition are such that it is required to be complied with before commencement. As such, those objectives and purposes would not be met if expressed other than as a pre-commencement condition.

21. Biodiversity Enhancement Plan

Prior to the commencement of development (including site clearance) a Biodiversity Enhancement Plan (BEP) addressing ecological mitigation and enhancement of the site has been submitted to and approved in writing by the local planning authority. The BEP shall be based on the outline proposals in Section 5.3 of the submitted Preliminary Ecological Appraisal by Adonis Ecology Ltd. Dated 20th April 2022 and include the following:

- a) Purpose and conservation objectives for the proposed works including creating suitable habitat for reptiles and amphibians and mammals and creating new hedgerows;
- b) Detailed design(s) and working method(s) to achieve stated conservation objectives;
- c) Extent and location/area of proposed works on appropriate scale maps and plans;

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- d) Type and source of materials to be used where appropriate, e.g. native species of local provenance;
- e) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- f) Persons responsible for implementing the works.

The BEP shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To ensure that the losses of biodiversity can be compensated for and a net gain in biodiversity delivered in accordance with the requirements of the NPPF (September 2023), and that the proposed design, specification and planting can demonstrate this. The objectives and purposes of this condition are such that it is required to be complied with before commencement. As such, those objectives and purposes would not be met if expressed other than as a pre-commencement condition.

22. Landscape and Ecological Management Plan

A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the completion of site access works of the development. The content of the LEMP shall include the following.

- a) Description and evaluation of features to be managed;
- b) Ecological trends and constraints on site that might influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions, together with a plan of management compartments;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- g) Details of the body or organisation responsible for implementation of the plan;
- h) Monitoring measures to demonstrate that the aims and objectives of management are being achieved including:
 - Identification of adequate baseline conditions prior to the start of development;
 - Methods for data gathering and analysis;
 - Location of monitoring and timing and frequency of monitoring;
 - Responsible persons and lines of communication.
- i) Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and

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objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: Biological communities are constantly changing and require positive management to maintain their conservation value. The implementation of a LEMP will ensure the long term management of habitats, species and other biodiversity features.

23. Highways Works

No dwelling hereby approved shall be occupied until the off-site highway works to the A2500 Lower Road / Barton Hill Drive roundabout as indicated on drawing number SCP/220758/D03 have been constructed in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and convenience.

24. Highways Works

No more than 300 dwellings hereby approved shall be occupied until vehicle accesses onto Scocles Road and the A2500 Lower Road respectively as indicated on Create Consulting Engineers Ltd drawings both numbered 03/001 and 03/001, and a spine road connecting the two have been constructed and opened for use in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and convenience.

25. Provision of footway

Prior to the occupation of any dwelling accessed from Scocles Road, a footway measuring at least 2m in width shall be constructed on the eastern side of Scocles Road between Thistle Hill Way and Elm Lane in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and convenience.

26. Provision of footway

Prior to the occupation of any dwelling accessed from Lower Road, a 3m wide shared use footway/cycleway shall be constructed alongside Lower Road as shown indicatively on drawing BG/SRM/PCP/1 Revision C and extending to Scocles Road in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and convenience.

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27. Provision of shared use footway/cycleway

Prior to the occupation of any dwelling accessed from Lower Road, off-site works to construct a 3m wide shared use footway/cycleway between the existing provision at the junction of Lower Road and Thistle Hill Way to the junction of Lower Road and Scocles Road shall be carried out in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and convenience.

28. Provision of footway connections

Prior to the submission of the first reserved matters application, a phasing plan and details of footway connections linking pedestrian routes within the development to Queen Anne Close and the southern boundary of Scocles Court shall be submitted to and approved in writing by the Local Planning Authority, and the footways shall thereafter be constructed in accordance with the approved specification and phasing plan.

Reason: In the interests of highway safety and convenience.

29. Construction Traffic Management Plan

Prior to the commencement of development (including any works of site clearance or preparation) a Construction Traffic Management Plan shall be submitted to, and approved in writing by, the Local Planning Authority (in consultation with the Highway Authority for the A249). The approved Plan shall be adhered to throughout the construction period. The Plan shall include as a minimum:

- a) Construction phasing
- b) The parking of vehicles of site operatives and visitors
- c) Loading and unloading of plant and materials
- d) Recording the condition of the immediate local highway prior to commencement, and measures to make good any damage attributed to construction traffic
- e) Routing and timing of construction traffic to / from site
- f) Wheel washing facilities
- g) Temporary traffic management / signage.

Reason: In the interests of the amenities of the area and highway safety and convenience and to mitigate any adverse impact from the development on the A249 in accordance with DfT Circular 01/2022 and section 10 of the Highways Act 1980. These details are required prior to commencement in order to ensure that satisfactory measures are in place prior to any construction activity.

30. Parking and turning space

No dwelling shall be occupied until vehicle parking and turning space has been provided, surfaced and drained to the satisfaction of the Local Planning Authority in accordance with the adopted parking standards, and shall be retained for the

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use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking and turning of vehicles is likely to lead to parking inconvenient to other road users and be detrimental to highway safety and amenity.

31. Electrical vehicle charging

No dwelling shall be occupied until full details of the electric vehicle charging have been submitted to and approved in writing by the Local Planning Authority. The agreed details shall then be implemented for each house before the dwelling in question is first occupied. All Electric Vehicle chargers must be provided to Mode 3 standard (providing up to 7kw). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list:

<https://www.gov.uk/government/publications/electric-vehicle-homecharge-schemeapproved-chargepoint-model-list>

Reason: In the interests of encouraging sustainable modes of transport and minimising the carbon footprint of the development.

32. Cycle storage

No dwelling shall be occupied or the approved use commenced until space has been laid out for cycles to be securely sheltered and stored for that dwelling within the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of sustainable development and promoting cycle visits.

33. Highways works

The proposed estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture shall be constructed and laid out in accordance with details to be submitted and approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

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Reason: To ensure that the roads are laid out and constructed in a satisfactory manner.

34. Highways works

Prior to the first occupation of a dwelling / premises the following works between that dwelling / premises and the adopted highway shall be completed as follows:

- a) Footways and/or footpaths shall be completed, with the exception of the wearing course;
- b) Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:
 - 1) highway drainage, including off-site works,
 - 2) junction visibility splays,
 - 3) street lighting, street nameplates and highway structures if any..

Reason: In the interests of highway safety.

35. Travel Plan

The development hereby permitted shall not be occupied unless and until a comprehensive Full Travel Plan has been submitted to and approved in writing by the Local Planning Authority (in consultation with the Highway Authority for the A249). The Full Travel Plan shall be prepared in line with prevailing policy and best practice and shall include as a minimum:

- the identification of targets for trip reduction and modal shift;
- the measures to be implemented to meet these targets including an accessibility strategy to specifically address the needs of residents with limited mobility requirements;
- the timetable/ phasing of the implementation of the Travel Plan measures shall be alongside occupation of the development and its operation thereafter;
- the mechanisms for monitoring and review;
- the mechanisms for reporting;
- the remedial measures to be applied in the event that targets are not met;
- the mechanisms to secure variations to the Travel Plan following monitoring and reviews.

The development shall only be occupied in accordance with the approved Travel Plan which shall remain in perpetuity unless otherwise amended in accordance with a review to be agreed in writing by the Local Planning Authority in conjunction with the Highway Authority.

Reason: In order to minimise the use of the private car and promote the use of sustainable modes of transport in accordance with the National Planning Policy Framework and paragraph 40 DfT Circular 01/2022.

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36. Highways Mitigation Strategy – Monitor and Manage

The construction of the 250th dwelling (excluding enabling works, access routes, public realm, utilities and other associated infrastructure) shall not commence until full details of a 'Monitor and Manage Mitigation Strategy' has been submitted to, and approved in writing by, the Local Planning Authority, following consultation and agreement with National Highways as the highway National Highways Planning Response (NHPR 24-02) February 2024 authority for the Strategic Road Network (SRN). The Monitor and Manage Mitigation Strategy will set out a methodology to determine the actual traffic impacts of the completed dwellings in terms of traffic flow changes, changes to road safety risk, and changes in traffic conditions (queue lengths and delays) on the SRN upon the occupation of the 250th dwelling. This information is to be set out in a report, and be used to confirm that:

- a) the agreed mitigation for the A249/A2500 Roundabout (as shown in SCP drawings refs: SCP/220758/D08 Rev F and SCP/220758/D09 Rev E in the Transport Assessment Addendum dated April 2024 (Ref. SCP/220758/TAA/03)), remains necessary, or
- b) an alternative scheme of mitigation for the A249/A2500 Roundabout, detailed to preliminary design standard including but not limited to a Stage 1 Road Safety Audit, is necessary and appropriate to safely accommodate the traffic generation of the remainder of the development beyond the 325th dwelling, or
- c) the traffic generation of more than 325 dwellings can be safely accommodated by the existing A249/A2500 Roundabout layout and if so, the number of occupations that, on the basis of the monitoring data and up-to-date transport evidence, renders the agreed mitigation necessary. In this case, the monitoring process shall be repeated on the occupation of the Xth dwelling, X being the revised number of permitted occupations prior to mitigation becoming necessary minus 75, or
- d) the traffic generation of the full development can be safely accommodated by the existing A249/A2500 Roundabout layout and therefore the agreed mitigation is no longer needed.

The methodology shall set out how any review of traffic impacts will be informed by up-to-date transport evidence including appropriate traffic modelling capable of satisfactorily replicating the operation of the SRN including junction interactions and network constraints, with reported results.

Reason: To ensure the agreed mitigation for the A249/A2500 Roundabout remains effective and appropriate.

37. Highways Mitigation

The construction of the 326th dwelling shall not commence until the improvement schemes identified for the A249/A2500 Roundabout, as shown in National Highways Planning Response (NHPR 24-02) February 2024 SCP drawings refs: SCP/220758/D08 Rev F and SCP/220758/D09 Rev E in the Transport Assessment

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Addendum dated April 2024 (Doc Ref: SCP/220758/TAA/03) are completed and open to traffic.

Reason: To mitigate the impact of the development on the A249, in accordance with paragraph 115 of the NPPF (December 2023) and paragraph 40 of the DfT Circular 01/2022.

38. Lighting Design

Prior to the commencement of development a “lighting design strategy for biodiversity” for the site boundaries has been submitted to and approved in writing by the local planning authority. The lighting strategy shall:

- a) Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important foraging and commuting routes;
- b) Show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and these shall be maintained thereafter in accordance with the strategy.

Reason: In order to protect and enhance biodiversity on the site in accordance with the aim of local planning policy. In line with the National Planning Policy (2012) paragraph 125. The following species have been found on this site [bats, badgers and otters] and are sensitive to light pollution. The introduction of artificial light might mean such species are disturbed and/or discouraged from using their breeding and resting places, established flyways or foraging areas. Such disturbance can constitute an offence under relevant wildlife legislation. These details are required prior to the commencement of development in order to ensure that the construction works do not result in harm to any light sensitive species present on the site.

39. External Lighting Strategy

Prior to the installation of any external lighting, in a particular phase, a detailed lighting strategy shall be submitted to and approved in writing by the Local Planning Authority.

Reason: External lighting details are necessary in the interests of the character and appearance of the area, biodiversity and to protect residential amenities

40. Surface Water Drainage

Prior to the commencement of development details of surface water drainage have been submitted and approved in writing by the Local Planning Authority to demonstrate that requirements for surface water drainage for all rainfall durations

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and intensities up to and including the climate change adjusted critical 100 year storm can be accommodated within the proposed development layout.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and that they are incorporated into the proposed layouts. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

41. SUDS Scheme

Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment and Outline Drainage Strategy prepared by Paul Graveney Consulting Ltd (Issue 2 dated 22nd April 2022) and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

The drainage scheme shall include details of measures to mitigate the risk of flooding along watercourse corridors and land low spots. The details shall include consideration of flood resilience measures, exceedance routes away from buildings and finished floor level for any dwellings close to these locations.

The drainage scheme shall also demonstrate (with reference to published guidance) that appropriate operational requirements for each drainage feature or SUDS component are adequately considered and that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.

The drainage scheme shall be implemented in accordance with the approved details.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

42. SUDS Maintenance

Prior to the commencement of development a maintenance schedule shall be submitted to and approved by the Local Planning Authority. The schedule shall specify ownership and any proposed arrangements for future adoption by a public body or statutory undertaker. The schedule shall specify a timetable for

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implementation, and it shall provide a management and maintenance plan for the lifetime of the development. All SuDS should be located in accessible areas, and the plan should include addressing the frequency of maintenance for each SuDS feature based on guidance in the CIRIA SuDS Manual 2015 as well as details of who will carry out the maintenance. Any land drainage consent issued by the Lower Medway Internal Drainage Board will be suitably conditioned to include the proposed maintenance schedule.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

43. Surface Water Drainage Verification Report

No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 169 of the National Planning Policy Framework.

44. Diversion of Sewers/Water Mains

The developer must advise the local authority (in consultation with Southern Water) of the measures which will be undertaken to divert the public sewers/water mains, prior to the commencement of the development.

Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.

Reason: In the interests of safeguarding Southern Water infrastructure on the site.

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45. Energy

For each relevant phase, the details submitted pursuant to condition (1) (the reserved matters) shall include details of the materials and measures to be used to increase energy efficiency and thermal performance and reduce carbon emissions and construction waste shall be submitted to and approved in writing by the Local Planning Authority.

The details shall demonstrate that at least a 50% reduction in Dwelling Emission Rate compared to the Target Emission Rates as required under Part L1A of the Building Regulations 2013 (as amended) will be achieved.

The development shall thereafter be carried out in accordance with the approved details.

Reason: In the interest of promoting energy efficiency and sustainable development.

46. BREEAM

All non-residential buildings hereby approved shall be constructed to BREEAM 'Very Good' Standard or an equivalent standard and prior to the use of the buildings the relevant certification shall be submitted to the Local Planning Authority confirming that the required standard has been achieved.

Reason: In the interest of promoting energy efficiency and sustainable development.

47. Water Consumption

The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day.

Reason: In the interests of water conservation and sustainability.

48. Accessible and Adaptable Dwellings

At least 10% of the affordable units hereby permitted shall be built to M4(3) of building regulations standards and all of the remaining units will be built to M4(2) of building regulations standards unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to secure accessible and adaptable dwellings.

49. Noise

Prior to the commencement of development the final layout locations of properties on the site and their associated amenity areas shall be submitted to the Local Planning Authority together with a further noise assessment identifying properties that require noise mitigation measures and full details of any proposed measures.

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Upon approval by the Local Planning Authority the noise mitigation measures shall be implemented in full prior to occupation of the premises and retained thereafter.

Reason: To protect the amenities of any future residents and to ensure acceptable external and internal noise levels are specified and achieved. These details are required prior to the commencement of development in order to ensure that the development as built will provide satisfactory living conditions for future occupants.

50. Sports Facilities

The reserved matters shall include formal sports facilities to meet the needs of the development which shall be delivered in accordance with Sport England and relevant governing body standards.

Reason: In the interests of securing adequate sports facilities to meet the needs of the development which will be delivered to an appropriate specification.

51. Heritage Interpretation Board

Prior to the first occupation of the development hereby permitted the applicant shall install a heritage interpretation board within the site in the vicinity of Scocles Court in accordance with details which shall have been approved in writing by the Local Planning Authority. The heritage interpretation board shall provide information about Scocles Court including its historic function as a farmhouse.

Reason: In order to mitigate the impact of the development on Scocles Court arising from the loss of its rural setting.

PLANNING COMMITTEE –

PART 2

Report of the Head of Planning

PART 2

Applications for which **PERMISSION** is recommended

2.1 REFERENCE NO - 18/505157/OUT		
APPLICATION PROPOSAL Outline application with all matters reserved apart from the means of access for residential development of up to 60 dwellings.		
ADDRESS Land North Of Sanderling Way, Iwade, Kent, ME9 8TJ		
RECOMMENDATION – Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions and the completion of a Section 106 agreement as set out in the report, with further delegation to the Head of Planning / Head of Legal Services (as appropriate) to negotiate the precise wording of conditions, including adding or amending such conditions and precise Heads of Terms as may be consequently necessary and appropriate.		
REASON FOR REFERRAL TO COMMITTEE – Objection from Iwade Parish Council		
WARD Bobbing, Iwade and Lower Halstow	PARISH/TOWN COUNCIL Iwade	APPLICANT Mr Mick Drury AGENT Hume Planning
DECISION DUE DATE 21/01/19	PUBLICITY EXPIRY DATE 09/10/24	

1. SITE LOCATION AND DESCRIPTION

- 1.1. The application site is a broadly rectangular piece of land approximately 4.1 hectares in size and is situated directly adjacent to the northern edge of Iwade, immediately west of The Street. The site forms part of Local Plan Allocation A17, which wraps around the existing northern, eastern and southern edges of Iwade and totals 54 hectares of land. The Local Plan referred to the overall allocation in three distinct parts being the land to the north of Iwade, the land to the east of Iwade and the land south of Iwade at Pond Farm. This application relates solely to the land to the north of Iwade.
- 1.2. The application site is located within Flood Zone 1 (lowest risk of flooding). However, there is a localised risk of surface water flooding, particularly within the area surrounding existing ponds. The Swale Site of Special Scientific Interest (SSSI), The Swale Special Protection Area (SPA) and the Ramsar site are separated from the site by approximately 400 metres. The application site is not a designated landscape.

- 1.3. Located to the south-east of the site, within the built-up confines of Iwade and approximately 150 metres away from the site, lie three listed buildings: the Grade I listed All Saints Church, Grade II listed traditional agricultural barn and Grade II listed Ivy Cottage.

2. PLANNING HISTORY

- 2.1. The relevant planning history for this site is set out below (Please note that the majority of the below applications relate primarily to land to the east of Iwade – which has outline planning permission granted under ref. 19/503974/HYBRID, but it also included a small parcel of land - referred to as N2 - which is within the site boundaries for this application and indicatively showed the provision of 11 dwellings on that land):

19/503974/HYBRID: Planning permission granted on 29.07.2022 for hybrid application comprising of - Outline application (all matter reserved except for access) for up to 466 dwellings and a community hall. Full planning application for access from Grovehurst Road and The Street and for a country park.

24/503299/HYBRID: Planning permission refused on 12.11.2024 –in relation to a Section 73 application for the variation of condition 7 (to allow delivery of the Country Park in phases alongside the adjacent development parcels) pursuant to application 19/503974/HYBRID.

23/505303/HYBRID: Planning permission for Section 73 application granted on 10.07.2023 for variation of conditions 7 (country park), 13 (village hall), 26 (surface water drainage scheme), 46 (OLEMP), 47 (habitat creation plan), and 49 (LEMMP for the country park) pursuant to 19/503974/HYBRID for - Hybrid application comprising of - Outline application (all matter reserved except for access) for up to 466 dwellings and a community hall. Full planning application for access from Grovehurst Road and The Street and for a country park.

24/502881/REM: Undetermined application for the approval of reserved matters (Appearance, Landscaping, Layout and Scale sought) for sites E1 and E2 for residential development comprising 455no. dwellings and erection of a community hall, together with associated access, landscaping, drainage, infrastructure and earthworks, pursuant to 19/503974/HYBRID.

24/503312/REM: Undetermined application for the approval of reserved matters (Appearance, Landscaping, Layout, and Scale sought) for sites E1 and E2 for residential development comprising 455no. dwellings and erection of a community hall, together with associated access, landscaping, drainage, infrastructure and earthworks, pursuant to 19/503974/HYBRID.

Land At Pond Farm, Grovehurst Road, Iwade (also within policy A17 allocation):

19/501332/FULL: Planning permission granted on 08.07.2022 for the erection of 69 dwellings accessed from Grovehurst Road; public open and amenity space; together with associated landscaping and ecological enhancement works; drainage; utilities; and internal access roads, footpaths, cycleways and parking.

23/500242/FULL: Planning permission granted on 17.11.2023 for Section 73 - Application for minor material amendment to approved plans condition 3 (to allow tenure change to affordable housing, to deliver all 7no. units as Shared Ownership) and variation of condition 10 (to allow occupation of dwelling via temporary access until Kent Highways works on Grovehurst Road are complete) pursuant to 19/501332/FULL.

3. PROPOSED DEVELOPMENT

- 3.1. Outline planning permission is sought for the construction of up to 60 dwellings, with all matters reserved except for vehicular access off The Street. As this application is in outline form, the housing mix shown on the illustrative master plan is only indicative. However, the indicative housing mix is set out below: -
- 1 bed x 2 (3%)
 - 2 beds x 10 (17%)
 - 3 beds x 40 (67%)
 - 4 beds x 8 (13%)
- 3.2. 10% of the housing proposed as part of this application will be provided as affordable housing, equating to 6 affordable dwellings. The location of affordable housing is not indicated and will be managed through the reserved matters application. The tenure type proposed is:
- 5 affordable rent dwellings,
 - 1 shared ownership dwelling.
- 3.3. Relating to the layout, the proposed built form follows parameters set out in policy A17 of the Local Plan, with the dwellings forming an extension to Iwade village and the northern and western parts of the site reserved for open space and ecological habitats. 2.1 hectares of land would be reserved for housing, and the remaining 2 hectares comprise open space and ecological habitat areas. Ponds are retained, and new attenuation ponds are proposed as part of the drainage strategy in the northern part of the site.
- 3.4. A single point of vehicular access is proposed off The Street/Sheppey Way, lying to the east of the application site. Access is a matter for consideration at this stage, and the proposed access design will be consistent with the details approved under permission 19/503974/HYBRID. Vehicular access will be via a mini-roundabout that connects into development approved under 19/503974/HYBRID and the application site now under consideration. The proposed access road will be 5.5 meters wide with a 2 meter wide footway to each side. In terms of the parking provision, the submission confirms that the parking will be provided in accordance with the Swale Parking Standards. The illustrative masterplan shows that 143 parking spaces will be provided for residents and 12 parking spaces for visitors. Cycle parking will be provided within storage units within the rear gardens of the proposed homes. It is also proposed for the existing Public Right of Way to be incorporated into the proposed scheme and retained (subject to improvements).

- 3.5. The submitted drawings, including the revised Masterplan (ref. 2805-SK21D) and Design & Access Statement, show two additional pedestrian links to the existing Iwade village, both off Sanderling Way. These would be for pedestrians only.

4. CONSULTATION

- 4.1. Four rounds of consultation were undertaken, during which letters were sent to neighbouring occupiers; a notice was displayed at the application site, and the application was advertised in the Press. Full details of representations are available online.
- 4.2. During the lifetime of this planning application, **Iwade Parish Council** provided six representations and object to the application on the following grounds:-

Comment	Report reference
Initially, concerns about flooding were raised and it was requested that Officers consider KCC LLFA comments. Following receipt of additional information, this matter was not raised in subsequent responses.	7.14.5, 7.14.7
Vehicles should not park in the roadway prior to the agreed working hours to minimise noise impacts on neighbours.	7.10.12
The roundabout access is too close to the junction with The Street.	7.10.9
No further extension to housing in this area should be allowed.	7.2.6, 7.2.10
The existing junction of The Street/Sanderling Way and Ferry Road needs to be remodelled as it is dangerous.	7.10.9
Insufficient healthcare and educational infrastructure.	7.13.3
Seeks confirmation that the proposals fully adhere to the agreed approach regarding The Swale Special Protection Area (SPAs) and Wetland of International Importance under the Ramsar Convention (Ramsar Site).	7.9.2, 7.9.10
Raise concerns that the foul water infrastructure needs upgrading.	7.14.5

- 4.3. In total 70 letters of representation from neighbouring occupiers, all objecting to the application have been received. In response to the first round of consultation the objections received raised the following points:-

Comment	Report reference
The proposed access off Sanderling Way is unsafe, has insufficient visibility splays and would generate unacceptable traffic levels on local roads.	7.10.5, 7.10.8, 7.10.9, 7.10.11
No more houses are needed.	7.2.6
The village is unable to accommodate additional parking and vehicle movements.	7.10.12
The plans (as originally submitted) show too much development in the western area and insufficient landscaping buffer.	7.7.3
Insufficient parking and garages are too small.	7.10.12
The proposed development will increase the risk of flooding within the surrounding area.	7.14.3, 7.14.4, 7.14.6
There is insufficient community infrastructure (schools, healthcare) to support the additional population.	7.13.3 – 7.13.6
Loss of privacy, loss of views, overlooking and overshadowing properties along Sanderling Way.	7.16.2, 7.16.4
Increased noise levels arising from the additional traffic.	7.16.5
Impact upon the protected species and ecological habitats (bats, amphibians, birds)	7.9.6 – 7.9.12
Discrepancies in the plan in relation to no. 58 Sanderling Way.	7.16.5
Residents would like to know the likely additional cost for the maintenance of additional green/drainage areas.	7.14.4
Health Impact Assessment has not been submitted (as required by CP5).	7.18.3, 7.19.1
Harmful visual impact of the development that will harm the character of the village.	7.7.4 – 7.7.5
Illegal waste dumping to the north of the site should be taken into consideration.	7.18.4

Following receipt of the application, amendments to the scheme were requested, including changes to the access point and the reconsideration of layout, landscaping and quantum of development, to which 11 objections have been received. In addition to the above comments, the following new concerns were raised: -

Comment	Report reference
Questions whether sufficient ecological surveys were carried out, particularly around bat presence and protection of great crested newts.	7.9.6 – 7.9.12
Illegal activities at Raspberry Hill Farm should be taken into consideration.	7.18.4
Alternative access and a roundabout below the junction to Sanderling Way and The Street will compound the traffic problems.	7.10.5, 7.10.8
Increased noise levels arising from the additional traffic.	7.16.5
Unsafe parking around schools will increase as a result of this development.	7.10.12
Residents along The Street have their cars damaged regularly, and the proposal will contribute to this issue.	7.18.4
The village is overpopulated.	7.2.6

4.4. Subsequently to the above, final revisions were submitted in June 2024, to which 2 objections were received, raising no new points.

5. REPRESENTATIONS

5.1. **Health & Safety Executive** – No comments received.

5.2. **KCC Highways** – No Objection:

- The application has been revised so that the main access is now proposed off The Street, not Sanderling Way. This is consistent with Local Plan allocation policy A17;
- The trip rates are accurate and accepted;
- The traffic assessment for the hybrid application (19/503974/HYBRID) considered the highway impact arising from this application;
- The proposal needs to contribute towards HIF Improvements (Grovehurst Junction work).

On the basis of the above no objections were raised, subject to conditions requiring a Construction Management Plan, provision of access from The Street prior to any occupation (consistent with condition 16 of 19/503974/HYBRID), details of car and cycle parking, installation of active EV charging points, provision of footways and roads prior to occupation, and section 106 contributions including:-

- Grovehurst Junction/A249 contributions amounting to £135,349.66;
- Provision of sustainable transport vouchers for each dwelling (£350 for each dwelling);
- Financial contributions of £24,375 towards improvements of Sanderling Way/The Street Junction.

- 5.3. **National Highways** – Raised no objections subject to a safeguarding condition requiring a Construction Traffic Management Plan prior to commencement.
- 5.4. **KCC Ecology** – No objections were raised, as the proposed development has been accompanied by sufficient ecological information to inform proposals and mitigation. Advises that reptile and GCN mitigation habitat is suitable, but any future residential pressure should be mitigated. It is recommended that safeguarding conditions are imposed requiring the submission of an updated ecological reports within 2 years, submission of LEMP (Landscape and Ecological Management Plan), Ecological Enhancement Plan, submission of bat sensitive lighting plan, implementation of mitigation prior to works commencing and implementation of landscaping scheme.
- 5.5. **KCC Lead Local Flood Authority (LLFA)** – No objections subject to conditions requiring a detailed drainage scheme and submission of verification report prior to occupation.
- 5.6. **KCC Economic Development** – No objections, subject to financial mitigation towards community infrastructure, including:-

Type of infrastructure	Cost	Project
Primary Education	£389,466.00	Towards a new Primary school in Northwest Sittingbourne (Local Plan Policy MU1) and/or increased capacity in the Sittingbourne North or South planning group
Secondary Education	£307,295.46	Towards a new Secondary school in Northwest Sittingbourne (Local Plan Policy MU1) and/or increased capacity in Sittingbourne non-selective and Sittingbourne & Sheppey selective planning groups
Special Education Needs & Disabilities (SEND)	£30,790.66	SEND contribution to be applied towards additional places in the Swale district.
Community Learning and Skills (Adults)	£2,052.60	Community Learning Project details contribution to be

		applied towards/ or additional equipment and resources for adult education centres serving the development, including outreach provision.
Integrated Children's Services	£4,294.90	Towards additional equipment and resources for the Integrated Children's Services in Sittingbourne including outreach provision.
Libraries, Registrations and Archives Service	£3,757.80	Towards additional resources, equipment and book stock (including reconfiguration of space) at local libraries serving the development including Sittingbourne.
Adult Social Care	£10,852.80	Towards Specialist care accommodation, assistive technology systems and equipment to adapt homes, adapting Community facilities, sensory facilities, and Changing Places within Swale.
Waste	£11,647.80	Towards additional capacity at Sittingbourne HWRC & WTS.
All homes to be built as Wheelchair Accessible & Adaptable Dwellings in accordance with Building Regs Part M 4 (2)		
All to be index-linked by the All-In Tender Price Index from Q1 2022 to the date of payment.		

- 5.7. **NHS** – No objections, subject to financial mitigation being secured in s.106 agreement to mitigate pressure on healthcare arising from the proposed development, as set out below:-

Amount of contribution	Mitigation project
£51,840	Towards refurbishment, facilities and equipment reconfiguration and/or extension of existing general practice and other healthcare premises covering the area of development or new premises for general practice or healthcare services provided in the community in line with the healthcare infrastructure strategy for the area.

- 5.8. **Southern Water** – Acknowledges that network reinforcement will be required to accommodate additional capacity for the proposed development. This would be done after planning permission is issued and under separate legislation. No objections were raised, and notes that separate applications under Section 106 of the Water Act will have to be submitted.
- 5.9. **Kent Police**—No objections, subject to information requiring engagement with Designing Out Crime Officers (DOCOs) to incorporate Secured By Design (SBD) as appropriate.
- 5.10. **Natural England** – No objections, subject to financial contributions towards mitigation of additional recreational pressure upon North Kent Special Protection Areas (SPA) and safeguarding conditions requiring Construction Management Plan to ensure noise impacts upon wintering birds are minimised.
- 5.11. **UK Power Network**— No objections.
- 5.12. **Mid Kent Environmental Protection Team** – No objections raised, subject to the noise mitigation and air quality standard mitigation as set out in the Emission Mitigation Assessment, being secured. A verification report shall be submitted to the Local Planning Authority after approved measures have been installed.
- 5.13. **Historic England** – No comments offered – referred to the Council’s Heritage Officer.
- 5.14. **Environment Agency** – No comments to make on this planning application as it falls outside of EA remit as a statutory planning consultee.
- 5.15. **Lower Medway Internal Drainage Board** – No objections and informs that drainage consent from the board will be required.
- 5.16. **SBC Urban Design** – Supports the scheme and makes the following observations: -
 - The density of the development is appropriate and responds to the surrounding context,

- The proposal will link with the existing village through pedestrian links,
 - The layout reflects the concept plan as shown in the Local Plan,
 - The amenity open space (to the west) lacks natural surveillance, and the plots back on the amenity space. Improvements will be needed at the reserved matters stage to ensure that some houses provide overlooking towards the proposed amenity space as well as the ecological area to the north.
- 5.17. **SBC Heritage** – No objections.
- 5.18. **KCC Archaeology** – No objections raised. Agrees with conclusions of archaeological assessment that the site lies within an area of high potential arising from the multi-period remains found around the village of Iwade on development in recent years and that any impacts can be mitigated via safeguarding conditions securing further field evaluation work prior to submission of the reserved matters application.
- 5.19. **KCC PROW** – Upon receipt of the revised site layout, which has shown no obstruction to the Public Footpath ZR91, and shows Public Footpath ZR93, no objections were raised. KCC PROW requested that the footpaths within the site boundary be a minimum width of 2 metres. There should also be a connecting path of the same width where ZR91 joins with ZR93 up to the northern site boundary. All paths should be constructed to a design agreed with Kent County Council's Public Right of Way Service.
- 5.20. **SBC Active Travel** – No objections.
- 5.21. **SBC Climate Change** – No objections.
- 5.22. **SBC Affordable Housing** - Supports the proposed development.
- 5.23. **Kent Fire & Rescue** – No comments.
- 5.24. **SBC Trees**—There are no objections; from an arboricultural perspective, the proposed landscaping for the site is acceptable.
- 5.25. **SBC Green Spaces** – No objections, subject to a financial contribution to enhance the provision at the Village Park at £530.24 per dwelling, plus a contribution toward formal sport in the village of £704.99 per dwelling as identified in the current Open Space and Play Strategy.
- 5.26. **Swale Footpaths Group** – No objections were raised, but notes were made that route ZR61 would run close to proposed houses, so their privacy needs to be considered at an early stage (walls, fences).

6. DEVELOPMENT PLAN POLICIES

6.1. **Bearing Fruits 2031: The Swale Borough Council Local Plan 2017**

- ST1:** Delivering sustainable development in Swale
- ST2:** Development targets for jobs and homes 2014- 2031
- ST3:** The Swale settlement strategy
- ST4:** Meeting the Local Plan development targets
- ST5:** The Sittingbourne area strategy
- CP2:** Promoting sustainable transport
- CP3:** Delivering a wide choice of high-quality homes
- CP4:** Requiring good design
- CP5:** Health and wellbeing
- CP6:** Community facilities and services to meet local needs
- CP7:** Conserving and enhancing the natural environment – providing for green infrastructure
- CP8:** Conserving and enhancing the historic environment
- A17:** Iwade expansion
- DM6:** Managing transport demand and impact
- DM7:** Vehicle parking
- DM8:** Affordable housing
- DM14:** General development criteria
- DM17:** Open space, sports and recreation provision
- DM19:** Sustainable drainage and construction
- DM21:** Water, Flooding and drainage
- DM24:** Landscape
- DM28:** Biodiversity and geological conservation
- DM29:** Woodlands and Trees
- DM31:** Agricultural Land
- DM32:** Development involving listed buildings
- DM34:** Scheduled Monuments and Archaeological Sites

6.2 **Supplementary Planning Guidance / Document:**

- Swale Landscape Character and Biodiversity Appraisal SPD
- Swale Parking Standards SPD
- Developer Contributions SPD

6.3 **Other relevant material considerations:**

- Open Space Strategy
- Air Quality and Planning Technical Guidance
- Guidance on Climate Change planning condition
- Planting on New Developments

7. ASSESSMENT

- 7.1. This application is reported to the Committee due to Iwade Parish Council's objection being contrary to the Officer's recommendation. Considering these comments and the proposal that has been submitted, the main considerations in the assessment of the application are:-

- Principle
- Size and type of housing
- Affordable Housing
- Community Infrastructure
- Open Space
- Character and appearance
- Landscape Impacts
- Heritage
- Archaeology
- Ecology
- Transport and Highways
- Air Quality
- Sustainability
- Flood Risk, Drainage and Surface Water
- Contamination
- Living Conditions
- Other Matters

7.2. Principle

- 7.2.1. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision-making is the development plan unless material considerations indicate otherwise.
- 7.2.2. The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.
- 7.2.3. Paragraph 11 of the NPPF states that where the policies which are most important for determining the application are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Local Plan policies are considered out-of-date due to the fact that the Council is unable to demonstrate 5-year housing land supply.
- 7.2.4. Paragraph 124 of the NPPF states that planning decisions should promote effective land use, which contributes to the environmental objective of sustainable development, as defined by paragraph 8.
- 7.2.5. Policy ST1 of the Local Plan supports sustainable development on both identified and suitable sites within the borough.

- 7.2.6. The site is located immediately adjacent to the northern edge of the existing settlement of Iwade, which is designated as a rural local service centre under policy ST3 of the Local Plan. Crucially, the site is allocated for residential development under policy A17 of the Local Plan, and as such, the principle of residential development on the site is acceptable and compliant with the Local Plan policies ST1 and ST3.
- 7.2.7. Policy A17 sets out that a minimum of 572 dwellings are to be provided within the full extent of the allocation. Although some of the applications, such as this application, are for 'up to' a specified number of dwellings rather than a definitive number, together with the application at Pond Farm (69 homes) and to the East of Iwade (455 homes – not including the 11 dwellings which fall within this parcel of land), the maximum total of up to 584 houses would be provided as part of A17 allocation. This would be in accordance with the policy requirement that a minimum of 572 dwellings be delivered under this allocation.
- 7.2.8. The concept plan that supports policy A17 and contained in the Local Plan 2017 suggests that a number of units could be included on land to the north of the existing village edge, which is subject to this application. The proposed dwellings, as shown on the illustrative layout, are fully contained within the built-up boundaries area as identified in the Local Plan. It is also noted that the Local Plan policy A17 envisages the northern parcel of the allocation to deliver approximately 62 units, whereas this proposal would deliver 60 dwellings, and the scheme proposes an appropriate density and quantum of the development, consistent with the Local Plan requirements.
- 7.2.9. The key requirements of policy A17 for development to the north of Iwade are:-
- Provide a substantial green space with copse planting and enhanced hedgerow boundaries and wetlands to form a new, attractive village edge;
 - Retain existing mature vegetation on the Old Ferry Road boundary;
 - Safeguard, create and manage ponds for biodiversity and protected species;
 - Provide green corridors to interrupt the mass of development and provide softening in longer views;
 - Use low-density housing to respond to the local character and distinctiveness of the village, marshlands, and the local landscape area.
 - Provide primary access off The Street/Sheppey Way, not Sanderling Way.
- 7.2.10. The proposed housing is shown to be located entirely within the built-up boundaries, in accordance with the concept plan, whereas the landscaping and open space are located in the countryside and provide a buffer for the village. The wide landscaping buffers are incorporated along the western and northern edges of the development, consistent with the Local Plan vision. Whilst it is acknowledged that the public representation expectation is for these buffers to be wider, they are considered to be appropriately wide to support ecological habitats and meet the objectives of policy A17, as endorsed by KCC Ecology. A narrower landscaping buffer will be incorporated along a southern boundary, which is appropriate and in line with the policy expectation. In conclusion, the proposal will contribute towards meeting housing needs of the district and is considered to be in accordance with policies ST1, ST3, and A17 of the Swale Local Plan 2017.

7.3. Size and Type of Housing

- 7.3.1. The NPPF recognises that to create sustainable, inclusive, and diverse communities, a mix of housing types, which is based on demographic trends, market trends and the needs of different groups, should be provided.
- 7.3.2. The Local Plan policy CP3 requires the mix of tenures and sizes of homes provided in any particular development to reflect local needs. The Local Plan requires developments to achieve a mix of housing types, which reflects that of the Strategic Housing Market Assessment (SHMA). Subsequent to the adoption of the Local Plan, the Council's Housing Market Assessment (HMA) was prepared in 2020 (i.e., more recently than the Local Plan) after the introduction of the standard method for calculating the objectively assessed need. As such, officers have considered the proposed and indicative housing mix against that set out in the HMA:-

Tenure – HMA	1 Bed	2 Bed	3 Bed	4 Bed
Market Required	7%	33%	41%	19%
Market Proposed	4%	13%	68%	15%
Affordable Required	27%	23%	30%	20%
Affordable Proposed	0	50%	50%	0

- 7.3.3. The HMA (2020) broadly echoes the Local Plan requirements in terms of the mix of dwelling sizes. It should be remembered that this reflects the Borough wide need.
- 7.3.4. In terms of private housing (market tenure), the proposal is indicated to deliver a greater proportion of 3-bed dwellings and fewer 1 and 2-bed dwellings, however full details will be known once the layout is fixed. The mix of dwellings set out in the HMA and Policy CP3 is borough-wide and for Iwade specifically, the supporting text to Local Plan Policy CP3 states that the objective is for the development of good quality family housing, for which the greatest local demand exists. Three-bedroom units, of which the majority of the dwellings are, would cater for this demand. As a result it is considered that the mix is appropriate in this case. However, as this is an outline application, with layout a reserved matter, a condition has been imposed which requires the full details of the housing mix to be submitted and approved in due course to allow for flexibility. On the basis of the above, the scheme is considered to be in accordance with policy CP3 of the Local Plan.

7.4. Affordable Housing

- 7.4.1. The NPPF sets out the requirement for setting appropriate, affordable housing levels for new development based on up-to-date evidence. Through Policy DM8, the Local Plan requires 10% of affordable housing from developments in Sittingbourne town, urban extensions and Iwade.
- 7.4.2. The affordable housing proposed as part of the development equates to 10% of dwellings, which equates to 6 dwellings. The following tenure type for affordable housing will be incorporated within the scheme:-
- 5 x affordable rent,
 - 1 x shared ownership,
- 7.4.3. In terms of the affordable tenure, 83% will be delivered as affordable rent homes, with the remaining 17% as shared ownership. The Council's Affordable Housing Officer is satisfied with this approach and considers the scheme policy-compliant. The deviation from the typical tenure mix results from the small proportion of affordable homes delivered, because the 10% shared ownership required would amount to 0.6 of a dwelling in the context of this application. This was rounded up to 1 dwelling, which is reasonable. The affordable house sizes and types are indicative at this stage and will further be defined through discussions with the registered provider when they are found. As such, an exact size and type of affordable housing homes will come forward through the Affordable Housing Scheme, to be submitted and approved in writing prior to submission of the reserved matters application. Given the outline stage of this application, this is considered a suitable approach. The SBC Affordable Housing Officer has endorsed this tenure mix, which will be secured in the Section 106 agreement. All affordable house types will be required to be compliant with the Nationally Described Space Standards and meet the requirements of Part M4(2) of the Building Regulations, which can be reasonably secured via safeguarding conditions.
- 7.4.4. In terms of the design, the policy requires the proposed affordable homes to be indistinguishable from the houses proposed in the private tenure, and this matter will be assessed at the reserved matters stage. In view of the above, the proposals for affordable housing accord with policy DM8 of the Local Plan.

7.5. Heritage

- 7.5.1. The National Planning Policy Framework states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise, and this is endorsed by the Local Plan.

- 7.5.2. Local Plan Policy CP8 sets out various requirements proposals must accord with to sustain and enhance the significance of Swale's designated heritage assets. The policy states that development will sustain and enhance the significance of designated and non-designated heritage assets to sustain the historic environment whilst creating for all areas a sense of place and special identity.
- 7.5.3. Policy DM32 of the Local Plan relates to development involving listed buildings and states that development proposals affecting a listed building, or its setting will be permitted provided that the building's special architectural or historic interest, and its setting and any features of special architectural or historic interest which it possesses, are preserved. Criteria 5 of policy A17 of the Local Plan requires applications to undertake a detailed heritage assessment (including for archaeology) and mitigate any impacts identified.
- 7.5.4. In assessing heritage impacts, the first step is for the decision-maker to consider each of the designated heritage assets which would be affected by the proposed development in turn and assess whether the proposed development would result in any harm to the significance of such an asset. The site is near to listed buildings, therefore having the potential to impact their setting. The following heritage assets have been identified as being potentially impacted by the proposal:
- Grade I listed All Saints Church, separated by 188 metres from the site,
 - Grade II listed traditional agricultural barns, located approximately 138 metres away from the site,
 - Grade II listed Ivy Cottage, approximately 215 metres away from the site.
- 7.5.5. The NPPF makes it clear that a heritage asset's setting is the surroundings in which it is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to an asset's significance, may affect the ability to appreciate that significance, or may be neutral. In this case, given the separation distance and the existence of the existing buildings separating the site from the heritage assets, it is considered that the proposed development would preserve the setting of the historic assets and would not harmfully affect their special historic interests. Generous landscaping buffers will aid in assimilating the proposed development within the surrounding area so that, over a longer time, it appears as a coherent part of Iwade village. The proposal, therefore, appropriately responds to the surrounding environment and conserves the historic interest of the heritage assets. SBC Heritage Team raised no objection to the proposed development.
- 7.5.6. In considering the impact of this proposal upon designated heritage assets, officers have had regard to the duties of the Council pursuant to the Planning (Listed Buildings and Conservation Areas Act) 1990 and it is concluded that the proposal will preserve the setting of listed buildings, thus complying with policies CP8, DM14 and DM32 of the Swale Local Plan 2017 and the NPPF.

7.6. Archaeology

- 7.6.1. The NPPF sets out that where development has the potential to affect heritage assets with archaeological interest, LPAs should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.
- 7.6.2. Policy DM34 of the Local Plan sets out that planning applications on sites where there is or is the potential for an archaeological heritage asset, there is a preference to preserve important archaeological features in situ; however, where this is not justified, suitable mitigation must be achieved. Criteria 5 of policy A17 of the Local Plan requires applications to undertake a detailed heritage assessment (including for archaeology) and mitigate any impacts identified.
- 7.6.3. The application site is within the marshland, which would have been historically attractive for ancient people to occupy, so the potential for archaeological presence cannot be ruled out at this stage. Given this archaeological potential, further archaeological evaluation is considered necessary, as recommended by KCC Archaeology. Subject to safeguarding conditions requiring archaeological field evaluation, with allowance for further mitigation, should significant archaeology be identified, the proposed development is considered to be acceptable on archaeology grounds. The condition will be appropriately timed (requiring details for approval prior to submission of reserved matters application) to ensure that the outcome of this work informs future reserved matters layouts.
- 7.6.4. As such, subject to safeguarding conditions being imposed, the proposed development would have an acceptable impact on the archaeology, in line with policies DM34 and A17 of the Local Plan.

7.7. Character and appearance

- 7.7.1. The National Planning Policy Framework attaches great importance to the design of the built environment, and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement through policy CP4.
- 7.7.2. Policy DM14 sets out general development criteria, requiring, amongst other elements, developments to be well-sited and the scale, design and appearance to be sympathetic and appropriate to the location.
- 7.7.3. The application site does not lie within a designated landscape. Nonetheless, it is a marshland of an open character that contributes positively to the setting of the village. The layout and design of the development has been subject to considerable amendments during the course of this application. The amendments included:-
- Reduction in the total number of units by 5;
 - Removal of built form out of western and eastern edges of development;

- Increase provision of open space and green buffers;
- Provision of 'woodland' buffers to the west, and north and landscaped boundaries to the south;
- Incorporation of informal play space;
- Change to access point from Sanderling Way to The Street (a matter which was of significant concern initially during the public consultation process).

- 7.7.4. Additional planting and greenery has been proposed to enhance the plots and residential roads, creating a pleasant and high-quality neighbourhood. These parameters will be secured via safeguarding conditions to ensure that the reserved matters condition continues to propose a high-quality design.
- 7.7.5. Scale, landscaping and layout are reserved matters but the indicative layout demonstrates the capability of the site to accommodate 60 dwellings. The main parameters of the proposed development, such as the extent of the built form will be secured via safeguarding conditions to ensure that the proposed development appears as an integral extension to the village. Indeed, the position of the built form within the site would form a logical extension to the village with wide landscaped woodland buffers along the northern edge, thus marking a green edge to the settlement. The extent of the built development is dictated by ecological constraints as well as the concept masterplan contained in the Local Plan and so it is considered the scheme has been redesigned to conform to the parameters set in the concept plan included in the site specific allocation (policy A17) of the Local Plan.
- 7.7.6. The density of development proposed when taking into account the overall site area is 13.7 dwellings per hectare. This can be seen as low, however almost 50% is retained for the ecological and open space requirements. The "developable" area of the site, as shown, amounts to 2.1 hectares (approximately 50% of the total site) – and the density of development within this area amounts to approximately 25 dwellings per hectare. Policy A17 specifically states that this part of the Iwade expansion should incorporate low density housing and it is considered that the scheme provides an appropriate density for the edge of settlement location in accordance with the site specific policy requirement. This view is concurred with by the SBC Urban Design Officer, who raised no objections to the scheme.
- 7.7.7. It is noted that one of the recommendations from SBC Urban Design Officer is that the detailed layout at reserved matters stage will need to demonstrate improved animation and surveillance towards informal amenity space and footpath to the north. Officers agree that this will be required at a detailed reserved matters stage. The current masterplan demonstrates that the quantum of development can be comfortably accommodated within the site, and as the layout is not fixed, Officers are satisfied that this matter can be reasonably dealt with through reserved matters condition.
- 7.7.8. Subject to safeguarding conditions, the proposed development is considered appropriate to its context and complies with policies A17, CP4, DM14 and DM24 of the Local Plan 2017 and NPPF.

7.8. Landscape Impacts

7.8.1. Policy DM24 of the Local Plan states that the value, character, amenity and tranquillity of the Borough's landscapes will be protected, enhanced and, where appropriate, managed. For undesignated landscape, which this site is, permission will be granted subject to:-

- The minimisation and mitigation of adverse landscape impacts; and
- When significant adverse impacts remain, the social and/or economic benefits of the proposal significantly and demonstrably outweigh the harm to the landscape character and value of the area.

7.8.2. Policy DM24 of the Local Plan reiterates that visual assessments should inform the scale, layout, and design, considering the Council's Urban Extension Capacity Study and Landscape Character and Biodiversity Appraisal SPD.

7.8.3. The site is not located within or adjacent to a designated landscape. The Council's Landscape and Biodiversity Appraisal SPD identifies the site as part of the Lower Halstow Clay Farmlands, which is of moderate condition and high sensitivity. The eastern edge of the site falls within the Iwade Arable Farmlands. Landscape condition is assessed as moderate, and guidelines seek to conserve and restore landscape structure and soften development through woodlands, shelterbelts and hedgerows. Policy A17 of the Local Plan, at paragraph 6.5.104, summarises the surrounding landscape as set out below:-

"Landscape evidence advises that the landscape in this part of the village borrows a considerable degree of its sense of place from neighbouring marshland, such as the flat, exposed nature of the landscape and the big skies. There is a low capacity to accommodate change, but a small amount of residential expansion would be acceptable, providing that the new urban edge does not become visible in sensitive views from the marshes."

7.8.4. The landscape context of the site and surrounding area is predominantly open rural countryside occupying the undulating landform. The undulating nature of the topography, together with the lack of vegetation, creates an open and exposed wind-swept landscape with big skies. This allows open long-distance views across the area from areas of higher ground, especially to the northwest, north and east where there are views over the marshlands, The Swale and River Medway to the Isle of Sheppey and Isle of Grain and also inland views towards Iwade and Sittingbourne.

7.8.5. The application includes a Landscape and Visual Impact Assessment. This demonstrates that the development would be seen in the context of the existing settlement at Iwade, which provides a level of containment. Inevitably, the landscape character within the application site boundaries would be lost, as buildings would cover the open field.

7.8.6. The Design & Access Statement indicatively notes the height of the proposed development as set primarily over two storeys, however the scale is a reserved matter. Nonetheless, in the interest of the setting of the countryside, it is appropriate to restrict dwellinghouses to two-storey height and three storey in height for any apartment blocks. Apart from close views

from short sections of Sanderling Way, the proposed development would not impact on views from the surrounding countryside to the south. From the north, it would be seen as integrating with the existing settlement. Further, wide landscaping buffers and ecological habitats that will be created will provide a clear and green edge to the settlement and, therefore, have a positive impact on the surrounding landscape.

- 7.8.7. It is therefore considered that, subject to further landscaping along western and northern boundaries, the broader visual impact would not be adverse, and the indicative masterplan and landscaping measures would contribute towards providing a strong green edge to the village, as required under Policy A17 of the Local Plan. As such, the application would comply with policies A17 and DM24 of the Local Plan.

7.9. Ecology

- 7.9.1. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by Policies CP7 and DM28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.
- 7.9.2. The application has been the subject of an Appropriate Assessment (AA) under the Habitats Regulations. The AA concluded that there is a potential risk of harm to the European-designated sites at the Medway SPA and Ramsar Site. The impacts of this development were assessed in combination with other planned developments. The AA, which was prepared in consultation with Natural England, concludes that these impacts can be mitigated through financial mitigation. The applicant agreed to pay this, and the mitigation will be secured in the s.106 agreement. The AA was adopted on this basis.
- 7.9.3. Under the Natural Environment and Rural Communities Act (2006), the authority must, in exercising its functions, further the general biodiversity objective of conserving and enhancing biodiversity in England. Furthermore, the National Planning Policy Framework states that the planning policies and decisions should contribute to and enhance the natural and local environment by 'minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures and incorporating features which support priority or threatened species such as swifts, bats and hedgehogs.'
- 7.9.4. The National Planning Policy Framework states that 'if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for, then planning permission should be refused.'

- 7.9.5. The Local Plan Policy DM28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts, and compensate where impacts cannot be mitigated.
- 7.9.6. The application site comprises fields with some ponds. Therefore, there is a potential for ecological habitats to be present within the site. The Applicant has submitted an Ecological Appraisal Report (with subsequent addendums), which included surveys, and concluded that the site accommodates a low breeding population of Great Crest Newts located approximately 250-500 metres from the site. Due to the habitat connectivity between the ponds, the CGN present within the site and surrounding area are part of the same wider population.
- 7.9.7. The submitted report has detailed that an on-site receptor site will be created in the north of the site, and once created, the SUDS scheme will provide suitable habitat for the GCN population. The proposals include the enhancement of the existing pond on site and the management of the grassland within the site using a rotational cutting system to ensure suitable habitat is retained on site for the GCN. KCC Ecology queried whether the receptor site would be accessible for residents as there is a need to ensure that the quality of the habitat will not decline due to recreational pressure. However, the proposed northern ecological mitigation area will not be a usable open space, and the applicant has confirmed that the area will be fenced off. This would be secured via safeguarding condition (LEMP) and, on this basis, KCC Ecology is satisfied that the mitigation is appropriate.
- 7.9.8. It is noted that as part of mitigation for GCN, an application for a European Protected Species (EPS) mitigation licence to Natural England would be required. The Habitats Regulations 2010 (as amended) places an obligation on the Local Planning Authorities to consider the three European Protected Species licensing tests when considering a planning application which impacts on European Protected Species. The three licensing tests, which Natural England also has to apply later when considering a licence application, are (i) whether there are imperative reasons of overriding public interest for the planning application; (ii) whether there are any satisfactory alternatives; and (iii) whether the species' favourable conservation status has been maintained. In respect of these points, the site is a housing allocation, and development on this site is necessary to meet the housing targets of the Borough. Consequently, the derogation tests are considered to have passed. The mitigation for GCN, if the development is covered by an EPS licence, would involve providing compensatory habitat and habitat enhancements for the loss of terrestrial foraging habitat within the Site and also mitigation for the potential fragmentation effects.
- 7.9.9. In terms of the impact upon reptiles, the surveys have recorded common lizard and slow worm populations, as well as a low population of grass snakes. The proposed receptor site will be created within the site, and as explained above, the area will not be accessible for residential use. On this basis, KCC Ecology is satisfied that the proposed development will not negatively impact these species, and the mitigation is appropriate.
- 7.9.10. The ecological information submitted was sufficient for KCC Ecology to be satisfied that the site does not form part of a functionally linked habitat to wintering birds due to the habitats

present on the site. Whilst raised as a concern during the consultation period, KCC Ecology have subsequently confirmed that they are satisfied that bat roosts presence is unlikely. A moderate diversity of bat species is likely to use the site for commuting and foraging but the proposed habitat creation within the site is likely to benefit them in the longer term. Subject to safeguarding conditions securing the lighting levels and minimising light spill, the proposed development would not harm the ecological interests of protected species.

7.9.11. Subject to safeguarding conditions securing the above mitigation and Landscape and Ecological Management Plan (LEMP), ecological enhancements, as required by KCC Ecology, the proposed development would not result in any harmful impact on ecology and protected species. In view of the above, subject to safeguarding conditions, it can be concluded that the proposed development would not result in biodiversity loss and is acceptable on ecology grounds, in line with policies CP7 and DM28 of the Local Plan and paragraphs 180 and 186 of the NPPF.

7.9.12. The application proposes biodiversity enhancements through the creation of ecological habitat areas, which would provide a net gain. Although the figure is not quantified, the application was submitted prior to the introduction of a mandatory net gain requirement of a minimum of 10% and therefore the scheme would be in accordance with policy DM28 of the Local Plan.

7.10. Transport and Highways

7.10.1. The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. The NPPF sets out that development proposals should identify and pursue opportunities to promote walking, cycling and public transport use.

7.10.2. The NPPF also states that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios”

7.10.3. Local Plan policies CP2 and DM6 promote sustainable transport through utilising good design principles. Policy DM6 sets out that proposals will need to mitigate harm where highway capacity is exceeded and/ or safety standards are compromised.

Sustainability and access point

7.10.4. The application site is adjacent to an existing settlement that is identified as sustainable to accommodate growth within the adopted Local Plan. The nearest railway stations to the site are Swale and Kemsley, 1.6km and 2.1 km, respectively. Bus stops are within walking distance (at The Street) and provide regular services to Sittingbourne, Sheerness, and Minister. The village of Iwade also contains a good level of day-to-day facilities available to

future occupiers, and two pedestrian links are proposed through to Sanderling Way to allow good connectivity. The delivery of walkaway links will be secured via safeguarding conditions.

- 7.10.5. The site was initially proposed to have access off Sanderling Way. Following revisions to the scheme and considering public representations received, this has been amended and the application now proposes an access point off The Street, as envisaged in the allocation A17 of the Local Plan. The proposed access off The Street/Sheppey Way would take the form of a roundabout that would provide access to this site as well as providing access to the development approved under ref. 19/503974/HYBRID (land east of Iwade). This access arrangement is consistent with the details and transport strategy as approved under application reference 19/503974/HYBRID. The submitted application has provided further details regarding the suitability of the roundabout, which includes swept path drawings for servicing the development. The access point will be required to be delivered prior to the occupation of any dwelling within this site as controlled by the condition below.
- 7.10.6. To encourage a move to sustainable travel, the Applicant has prepared a draft Travel Plan (forming part of the Transport Statement), which states that the following measures are proposed:-
- Safe, covered cycle parking to be included,
 - Voucher worth £350 for each dwelling to purchase a bicycle,
 - Appointment for a travel co-ordinator.
- 7.10.7. The detailed Travel Plan will be secured via condition, as requested by KCC. Travel Vouchers will be secured via s.106 agreement. On this basis, the proposed development is considered to comply with policies CP2 and CP6 of the Local Plan 2017.

Traffic, road capacity and highway improvements

- 7.10.8. The application comes forward as part of a broader allocation and is accompanied by a Transport Assessment, which confirms that the trips generated as a result of this application would amount to 31 trips in the morning and 34 in the afternoon (two-way movements). This has been accepted by KCC Highways as accurate and is consistent with the conclusions of Transport Assessment as part of the wider hybrid application for allocation A17. Consequently, the proposed development represents 10.5% of the trips generated by the whole of Iwade Expansion. These conclusions are consistent with the Transport Assessment included as part of the hybrid planning application, which also included predicted impacts from the 60 dwellings proposed under this application.
- 7.10.9. In terms of the traffic and impacts upon the surrounding road network, the proposed development, based on the modelling, is shown to have the highest impact on The Street southbound (representing approximately 13% increase in traffic). Given this increase in traffic, it is therefore justified and necessary for this development to contribute towards improvements of Sanderling Way/The Street Junctions. KCC Highways requested a £24,375 contribution towards an improvement to that junction, payable prior to the

occupation of any dwelling. The improvements would be delivered by KCC Highways and include the following:-

- Installation of the raised table on the highway,
- Creation of mini-roundabout at the junction of Sanderling Way and The Street;
- Associated alterations to pavements.

7.10.10. The planning obligation has been accepted by the Applicant and will be secured via s. 106 agreement.

7.10.11. It is noted that to accommodate this growth, proportionate contributions to improvements to the junction at Grovehurst and A249 are also necessary. As requested and estimated by KCC Highways, this development was requested to contribute an equitable rate towards the HIF Improvements in the form of £135,349.66, payable upon commencement. This has been accepted by the Applicant and will be secured in s.106, as set out in Heads of Terms.

Parking provision

7.10.12. The application confirms that the proposal is to deliver parking in line with the Council's adopted parking standards. This would amount to 134 parking spaces and 14 visitor parking spaces, based on the indicative housing mix. KCC Highways and Officers are satisfied that there is sufficient land available to accommodate that level of parking within the site, as demonstrated by the Illustrative Masterplan. The temporary parking during construction will be managed through the Construction Management Plan, secured via condition. Relating to the size of the proposed garages and parking, this is proposed to comply with parking standards of Swale, however the detailed and fixed layout will come forward as part of reserved matters application. Subject to safeguarding conditions requiring parking and cycle parking which are set out below, the proposal is considered to be in line with KCC Highway requests and Local Plan requirements.

Conclusion

7.10.13. Consequently, subject to the financial mitigation towards highways improvement works, together with safeguarding conditions requiring a Construction Management Plan, provision of access prior to any occupation taking place, details of reserved matters application to include details of parking, inclusion of EV charging points and provision of footways and carriageways prior to occupation, the KCC Highways raised no objection to the application and considered the proposal to be acceptable on traffic increase and highways matters. These matters are all dealt with via condition and therefore, the proposed development would have an acceptable impact on highways safety and amenity and comply with policies CP2 and DM6 of the Swale Local Plan 2017 and the NPPF.

7.11. Air Quality

7.11.1. The importance of improving air quality in areas of the borough has become increasingly apparent over recent years. Legislation has been introduced at a European level and a national level in the past decade with the aim of protecting human health and the environment by avoiding, reducing or preventing harmful concentrations of air pollution.

7.11.2. The NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing new/existing development from contributing to or being put at unacceptable risk from, or being adversely affected by, inter alia, unacceptable levels of air pollution. It also requires the effects of air pollution and the potential sensitivity of the area to its effects to be taken into account in planning decisions.

7.11.3. The Planning Practice Guidance on Air Quality states that

“whether or not air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to generate air quality impact in an area where air quality is known to be poor. They could also arise where the development is likely to adversely impact upon the implementation of air quality strategies and action plans and/or, in particular, lead to a breach of EU legislation.....”.

7.11.4. The Local Plan at Policy DM6 sets out that development proposals will integrate air quality management and environmental quality into the location, design, and access to development and demonstrate that proposals do not worsen air quality to an unacceptable degree.

7.11.5. The proposed development is a major development. However, the proposal is likely to generate vehicle movements below relevant criteria for Air Quality Assessment for developments outside of the AQMA. Consequently, the submitted Emission Mitigation Statement has been submitted in support of the proposal. This identified a total damage cost of £11,506. The following mitigation measures are proposed:

- A Travel Plan will be produced for the Proposed Development prior to the occupation, it will include measures which will discourage the use of private cars by encouraging the use of sustainable travel choices;
- A Welcome Pack will be provided to all residents, which will include the provision of bus timetables, maps of local facilities, travel vouchers and information on car-sharing initiatives;
- Provision of cycle storage facilities;
- Provision of green infrastructure/planting, which would include particular species to help with filtering traffic pollution.

7.11.6. Whilst some of the aforementioned measures (for example: cycle storage) are required to be delivered by different policies, it is considered that other measures would be sufficient to mitigate the impacts identified and exceed the calculated damage costs. Furthermore, SBC

Environmental Health has reviewed the submission and concluded that there are no adverse impacts on air quality, either alone or in combination and is satisfied with the mitigation proposed.

7.11.7. In accordance with Swale Air Quality Guidance, standard mitigation in the form of EV charging points will be secured via safeguarding conditions. Subject to safeguarding conditions, the proposed development is considered acceptable and would not worsen air quality, which is in line with requirements of policy DM6 of the Swale Local Plan 2017 and NPPF.

7.12. Open Space

Type of open space	Policy requirement DM17	Proposed within this application
Parks & Gardens	1.11 ha per 1000 population = 0.15 ha	Country park delivered within wider A17 allocation
Natural & Semi-natural	4.36 ha per 1000 population = 0.62 ha	1.5 ha
Formal Outdoor Sport	1.09 ha per 1000 population = 0.16 ha	Off-site contribution
Amenity greenspace	0.45 ha per 1000 population = 0.06 ha	0.2 ha
Provision for children and young people (informal)	0.24 ha per 1000 population = 0.03 ha	0.3 ha
Formal Play	Contribution on or off-site	Off-site contributions
Allotments	0.2 ha per 1000 population = 0.028 ha	Within wider allocation

7.12.1. Local Plan Policy CP7 requires developments to promote the expansion of Swale's natural assets and green infrastructure. Policy DM17 of the Local Plan sets out that new housing development should make provision for appropriate outdoor recreation and play space proportionate to the likely number of people who will live there. This space should be fully accessible all year round.

7.12.2. Site-specific allocation policy A17 requires a generous amount of open space to be provided within the full extent of the allocation, and it has to be noted that this application forms just a small parcel of land that forms part of the wider allocation. The individual applications collectively demonstrate that open space and green spaces within the allocated were planned comprehensively.

- 7.12.3. This application delivers 2 ha of open space, which, in totality, exceeds the total requirements for open space for this development (1 ha). Whilst not all typologies are proposed within this site, given the context of the wider allocation (where the country park and allotments are proposed), the focus on this site has been on the provision of appropriate ecological mitigation that increases biodiversity and habitats on-site and wide buffers, as required by policy A17. There is also appropriate provision for accessible open space for residential recreation, as there is a parcel of land totalling 0.2 ha reserved for amenity green space, in addition to 0.3 ha of land in the western part of the site, which would be accessible to residents and incorporate informal play space.
- 7.12.4. The majority of open space typologies are exceeded as per policy requirements, whereas other typologies – such as parks would be provided with broader allocation and be fit for purpose, given the scale proposed. Considering the scale of the development, the availability of amenity play space within walking distance within the village of Iwade and also the availability of amenity areas delivered as part of the allocation, the proposed development provides for sustainable communities with access to green spaces and amenity spaces. It is noted that when considered in isolation, the provision of amenity space to serve the needs of this application is sufficient to achieve policy compliance and is also broadly consistent with the broader masterplan approved as part of the hybrid application.
- 7.12.5. The applicant has been requested to provide financial contributions to mitigate the pressure arising from this application and contribute towards off-site improvements to open spaces within the Village Park (Woodpecker Park) and formal sports facilities within the village. SBC Greenspaces Officer identified that financial contributions could be directed toward off-site open space improvements towards increasing the capacity of the play area and sports pitches through improvements to the existing provision. The request is considered CIL complaint, and in accordance with the open space strategy, the following amounts were requested:-
- Contribution of £713.17 per dwelling (a total of £42,790.20) towards increasing the capacity of formal sports facilities in the village.
 - £530.24 per dwelling (a total of £31,814.40) towards play area improvements.
- 7.12.6. The Applicant has agreed to pay the requested mitigation in full, with the first 50% payable upon commencement of the development and a reminder of the mitigation payable upon occupation of the 40th house. This will be secured in s.106.
- 7.12.7. In view of the off-site mitigation towards open space improvements, the development is considered to mitigate its pressure and comply with policy DM17 of the Swale Local Plan 2017 and NPPF.

7.13. Community Infrastructure

- 7.13.1. The National Planning Policy Framework attaches importance to ensuring that a sufficient choice of school places are available to meet the needs of existing and new communities.

This is reflected in Policies CP5 and CP6 of the Local Plan, which set out that provision shall be made to accommodate local community services, social care and health facilities within new developments.

7.13.2. As with any planning application, the request for financial contributions needs to be scrutinised in accordance with Regulation 122 of the Community Infrastructure Regulations 2010 (which were amended in 2014). These stipulate that an obligation can only be a reason for granting planning permission if it is:

- Necessary
- Related to the development
- Reasonably related in scale and kind

7.13.3. Kent County Council, in its capacity, has identified that the proposed development will generate additional pressure on existing community facilities, including schools. The following mitigation has been requested:-

Type of infrastructure	Cost	Project	Trigger point
Primary Education	£389,466.00	Towards a new Primary School in Northwest Sittingbourne (policy MU1) and/or increased capacity in the Sittingbourne North or South planning group	50% payable prior to the first occupation and the remaining 50% payable prior to the occupation of 30 th house
Secondary Education	£307,295.46	Towards a new secondary school in Northwest Sittingbourne (Local Plan Policy MU1) and/or a new secondary school in Sittingbourne nonselective and Sittingbourne & Sheppey selective planning group areas.	50% payable prior to the first occupation and the remaining 50% payable prior to the occupation of 30 th house
Special Education Needs & Disabilities (SEND)	£30,790.66	SEND contribution to be applied towards additional places in the Swale district.	50% payable prior to the first occupation and the remaining 50% payable prior to the occupation of 30 th house

Community Learning and Skills (Adults)	£2,052.60	Additional equipment and resources for adult education centres serving the development, including outreach provision.	50% payable prior to the first occupation and the remaining 50% payable prior to the occupation of 30 th house
Integrated Children's Services	£4,294.90	Additional equipment and resources for the Integrated Children's Services in Sittingbourne, including outreach provision, are needed.	50% payable prior to the first occupation and the remaining 50% payable prior to the occupation of 30 th house
Libraries, Registrations and Archives Service	£3,757.80	Towards additional resources, equipment and book stock (including reconfiguration of space) at local libraries serving the development including Sittingbourne.	50% payable prior to the first occupation and the remaining 50% payable prior to the occupation of 30 th house
Adult Social Care	£10,852.80	Towards Specialist care accommodation, assistive technology systems and equipment to adapt homes, adapting Community facilities, sensory facilities, and Changing Places within Swale	50% payable prior to the first occupation and the remaining 50% payable prior to the occupation of 30 th house
Waste	£11,647.80	Towards additional capacity at Sittingbourne HWRC & WTS.	50% payable prior to the first occupation and the remaining 50% payable prior to the occupation of 30 th house
All homes to be built as Wheelchair Accessible & Adaptable Dwellings in accordance with Building Regs Part M 4 (2)			
All to be index-linked by the All-In Tender Price Index from Q1 2022 to the date of payment.			

- 7.13.4. The application has been assessed in accordance with the KCC Development Contributions Guide, and inevitably, given the increased population as a result of additional dwellings, the proposed development will put pressure on existing community facilities. The above contributions and identified projects are considered to be CIL-compliant, required by policy A17 (criteria 8) and are necessary to make the development acceptable in planning terms to provide sufficient community infrastructure to serve additional populations. The applicant has agreed to pay those contributions in total and agreed to trigger points identified above.
- 7.13.5. In terms of the impact upon healthcare, the proposal will generate approximately 144 new patient registrations in general practice, as estimated by NHS and based on the dwelling mix proposed. The proposed development falls within the current practice boundaries of Grovehurst Surgery, The Meads Medical Practice, Green Porch Medical Partnership and Princes Park Medical Centre (Iwade Health Centre), where there is limited capacity to accommodate growth. The financial contributions will allow that growth to be accommodated and mitigate the pressure arising from the proposed development. The Applicant has agreed to secure contributions in a s.106 agreement and pay 50% prior to the 1st occupation with the outstanding amount prior to 35th occupation. However, the precise timings of these payments have not at this point been agreed by the NHS. Therefore, the trigger points for payments will be included in the s.106 agreement via further consultation with the NHS.
- 7.13.6. Subject to all necessary contributions being secured in s.106 agreement, the proposed development would mitigate its pressure upon existing services and is in accordance with policies CP5 and CP6 of the Local Plan 2017, and NPPF.

7.14. Flood Risk, Drainage and Surface Water

- 7.14.1. The NPPF states that local planning authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. This is reflected in policy DM 21 of the Local Plan.
- 7.14.2. Part 4 of Local Plan Policy DM21 states that development should include where possible, sustainable drainage systems (SuDS) to restrict runoff to an appropriate discharge rate, maintain or improve the quality of the receiving watercourse, to enhance biodiversity and amenity and increase the potential for grey water recycling. Criteria 3 of policy A17 of the Local Plan requires applications to be accompanied by a site flood risk assessment that shall consider sustainable drainage and land management measures that should be undertaken within the developed areas and open space.
- 7.14.3. The application site is in Flood Zone 1 and at low risk of flooding from sea. In terms of the drainage strategy for surface water disposal, this is based upon the principles of providing attenuation for surface water runoff within the site with a controlled discharge to the existing ditch running along the northern site boundary, involving the creation of new drainage ponds and connecting swales. The illustrative drainage layout shows that three new ponds will be

created and that there is sufficient space on-site to accommodate the required drainage strategy and the proposed quantum of development.

- 7.14.4. In the long term, the swales and ponds will provide foraging opportunities for species present within the site, as considered further in the ecological reports. This demonstrates that the ecological and drainage strategies can be carried out in conjunction with one another without conflict. KCC LLFA sought clarification over the location of ponds to ensure that sufficient space is available to design attenuation ponds outside of the built footprint (footways, etc.). The illustrative plans were updated to ensure that this is feasible, and KCC LLFA accepts that a fixed layout will be proposed at a reserved matters stage. This strategy has been endorsed by KCC LLFA and no objections were raised, subject to further detailed design being secured via safeguarding conditions. Comments were raised by neighbouring occupiers, citing concerns relating to the maintenance cost of the sustainable drainage and additional costs to existing occupiers. The maintenance and management schedule will be secured via safeguarding conditions, and any associated cost to future occupiers would be a private matter to be established via separate contracts.
- 7.14.5. The proposed foul water would be disposed of by connecting to the Southern Water foul water network. Comments were raised during the public consultation, raising concerns over inadequate foul sewage capacity. Southern Water commented on the application and confirmed that network reinforcements will be required to provide additional capacity. Southern Water is required to provide adequate capacity via separate legislation and did not object to the proposals. It is noted that the above arrangement will require an application under Section 106 of the Water Industry Act to Southern Water in order to provide capacity and this matter is dealt with via separate legislation which sits outside of the planning process.
- 7.14.6. Turning to the point of flood risk, flooding was raised as a concern during the neighbour consultation process. The site is currently marshland with existing ponds and associated risk of surface water flooding within the area of ponds. As such, the proposed drainage strategy accommodates a sufficient area of land to allow the attenuation and storage of surface water to prevent flooding. As the site has been allocated for housing through the Local Plan process and the surface water flooding is within the areas reserved for open space/drainage, neither the Sequential nor Exception Tests are required.
- 7.14.7. In view of the above and subject to safeguarding conditions requiring detailed design of the drainage strategy for this site and a verification report, the proposed development will not increase the risk of flooding within or outside of the site and complies with policy DM21 of the Swale Local Plan 2017 and NPPF.

7.15. Contamination

- 7.15.1. The NPPF states that local planning authorities should ensure that the site is suitable for its new use by taking into account various matters, including pollution arising from previous uses.

7.15.2. The site is a former agricultural field and so the risk of contamination is low but cannot be ruled out. Consequently, the Mid Kent Environmental Health Team advised that a land contamination survey would be required via a condition. Subject to safeguarding conditions requiring a Phase 1 Contamination Survey, the risk of contamination can be safely managed and the development will comply with paragraph 189 of the NPPF.

7.16. Living Conditions

Existing residents

- 7.16.1. Policy DM14 of the Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.16.2. The application is surrounded by countryside to the north and west and the existing edge of Iwade village to the south. Due to the relationship between the site's location and existing dwellings along the edge of Iwade, this needs to be examined in as much detail as possible, in the context of the outline nature of the application.
- 7.16.3. As layout is a reserved matter, the submitted layout is only indicative, and the position of dwellings is not fixed. Notwithstanding this, the submitted illustrative masterplan demonstrates that a minimum back-to-back distance of 21 metres between proposed dwellings and existing houses can be achieved with the quantum of the development proposed. In the instance of plots 49 and 58, the distances shown are less than 15 metres, as indicated in the land parameter plan ref. 5598/OPA/SK 002 rev. B as approved under outline permission 19/503974/HYBRID (part of which also covers this site), however, these dwellings are shown to be orientated at a 90-degree angle and have flanked elevations towards the neighbouring plots.
- 7.16.4. In terms of the proposed plots 8 and 26, whilst not covered by the approved parameter plan, they have a similar acceptable angled position. Should that be the situation at reserved matters stage, windows in flank elevations can be either limited or secured as obscure-glazed to mitigate any harmful impacts. Turning to the impacts arising from the illustrative position of the proposed plot 3, this is positioned at an appropriate distance from the rear elevation of 66 and 68 Sanderling Way. The distance, together with the angle of the proposed dwelling that would face towards the existing garage, would ensure that there are no significantly harmful opportunities for overlooking towards these existing dwellings (which also now incorporate small single-storey extensions). For these reasons, Officers are of the view that the proposed development can be made acceptable at the reserved matters stage and would not result in any adverse overlooking, overbearing, loss of privacy, overshadowing or enclosing effects.
- 7.16.5. Concerns were raised around the discrepancies in the submitted drawings in that some of the recent extensions to existing properties were not shown on the drawings. Whilst the extensions were not shown, Officers visited the site and the surrounding area and thoroughly assessed the impact upon neighbouring occupiers, considering the existence of extensions, as addressed above.

- 7.16.6. Any additional noise level impacts would be mainly associated with construction and temporary in nature. This will be managed by the CEMP and secured via safeguarding conditions.

Future residents

- 7.16.7. Policy DM14 of the Local Plan provides general development criteria and requires that development does not result in significant harm to amenity (including that of future occupiers of development).
- 7.16.8. New development is expected to offer future occupiers a sufficient standard of accommodation and to have regard to the Government's minimum internal space standards for new dwellings.
- 7.16.9. The details submitted in support of the application state that all dwellings will adhere to the National Minimum Space Standard, although as this is an outline application, no detailed floor space layouts have been submitted. Turning to the overlooking and privacy, the proposed dwellings are indicatively shown to be separated at an appropriate distance and, therefore, can be designed in a way to avoid overlooking and loss of privacy. These matters will therefore be determined as part of the reserved matters application at a later stage. In conclusion, there is nothing in this application to suggest that the quality of accommodation for future occupiers would be inadequate and so this is considered satisfactory.
- 7.16.10. In conclusion, in relation to living conditions of existing and future residents the application complies with Local Plan Policy DM14.

7.17. Sustainability / Energy

- 7.17.1. Policy DM19 of the Local Plan requires development proposals to include measures to address climate change. Additionally, in 2020, Swale Borough Council adopted a Climate and Ecological Emergency Action Plan, which requires housing development to reduce carbon emissions by 50% compared to the Building Regulations Part L1 2013.
- 7.17.2. The Design & Access Statement (amended, November 2023) incorporates a Sustainability Strategy that outlines the proposed development's ambition to deliver sustainable development that specifically responds to Local Plan Policies DM19 and DM21 as well as to the Climate and Ecological Emergency Declaration by Swale Borough Council in June 2019. In addition, a Sustainability Note has been provided which confirms that the following measures will be incorporated:-
- Building high-quality development that meets and exceeds building regulations
 - Provision of solar panels
 - Ground and/or Air Source Heat Pumps
 - Consideration given to the orientation of homes and sustainable layouts (preventing overheating, maximising solar gain, ventilation),
 - Insulation with high thermal performance,

- LED, low-energy lighting,
- Commitment to the provision of on-site renewable and low-carbon technology,
- Integrating green and blue infrastructure into the development,
- Provision of EV charging points (active and passive),
- Preparation and monitoring of a Travel Plan,
- Water consumption limit of 110 l/day per person (reduced-flow taps and showers, dual-flush toilets, moderately sized baths, water butt installed as a form of rainwater harvesting).

7.17.3. Whilst more details would be desirable, and the proposal does not go into detail about the percentage of carbon emission reduction to be achieved, it is considered that the above measures are sufficient to ensure policy compliance and a high standard of development. Officers are confident that this is deliverable, as the size of the site allows for a variety of options to be utilised. In addition, this is an application for outline planning permission and, as a result, precise details will be able to be submitted and approved before construction can begin under the terms of reserved matters applications. For these reasons, this matter can be reasonably dealt with via safeguarding conditions, which require a 50% carbon reduction over the building regulations requirements. The Sustainability Statement also confirms that the development, through the installation of water-efficient features, will be designed to reduce water usage. A safeguarding condition will ensure that the water consumption is no more than 110 litres per person per day to ensure policy compliance. Electric Vehicle charging provision will be secured via safeguarding conditions.

7.17.4. In summary, the proposed development includes adequate measures to address climate change and complies with Local Plan Policies DM19 and DM21.

7.18. Other matters

7.18.1. Comments received in respect of loss of a view of fields/countryside/open landscape is not a planning consideration when determining the planning application.

7.18.2. The proposed development would inevitably result in a loss of agricultural land (Grade 3b), but as this site is allocated for housing development, the loss has been accepted at the Local Plan stage. In addition, as the land is grade 3b it is not classed as best and most versatile agricultural land. Therefore, the proposal complies with policy DM 31 of the Local Plan.

7.18.3. Policy A17, criteria 6 requires the application to be accompanied by a Health Impact Assessment (HIA). The application is not accompanied by a HIA and, therefore, conflicts with this part of policy A17. Notwithstanding this, no unacceptable harm arising from not meeting this requirement has been identified, particularly given that the development provides adequate mitigation, including healthcare, community infrastructure and open space. As such, it would not be reasonable to refuse permission on this ground.

The Health and Safety Executive have not responded to the consultation request. Notwithstanding, the proposed development is unlikely to incorporate 'vulnerable buildings' (as defined by HSE), as all development is indicatively described as two-storey in the Design and Access Statement submitted with the application. To ensure no risk to future occupiers and in the visual interests of the surrounding area, a safeguarding condition has been imposed, which restricts storey height to less than what HSE considered acceptable on the hybrid application.

7.18.4. Concerns were raised that the vehicles parked along The Street are continuously damaged, and the proposal will contribute to this issue. KCC Highways confirmed that the proposal is safe on highway grounds.

7.18.5. In addition, some comments were received that this application should be considered in the context of the activities taking place within Raspberry Hill Farm. Raspberry Hill Farm is subject to enforcement investigation and is separated from the application site boundaries (approximately 450 metres away). As a result, it is not considered to have any material impact upon the consideration of this application.

7.19. Conclusion

7.19.1. The application site is allocated for housing in the adopted Local Plan, which establishes the principle of residential development on this site. Moreover, although the scheme is not reliant on the 'tilted balance' (NPPF paragraph 11), it is relevant that the Council is unable to demonstrate a 5-year housing land supply. This means that development should be approved unless the adverse impacts outweigh the benefits in a demonstrable and significant way. The above assessment demonstrates that the scheme would contribute positively to the Borough's housing supply and provide 6 affordable homes. There are no objections from technical consultees. There is a very limited conflict with criteria 6 of policy A17 in that a Health Impact Assessment has not been submitted, however for the reasons set out in the report this is given extremely limited weight that is significantly outweighed by the benefits of the proposal, which includes the delivery of housing on an allocated site. Consequently, it is recommended to grant planning permission subject to safeguarding conditions and s.106 agreement securing all planning obligations as set out in the report.

CONDITIONS

Reserved Matters

1. Details relating to the appearance, landscaping, layout, and scale of the proposed dwelling(s) (hereinafter called the 'reserved matters') shall be submitted to and approved by the Local Planning Authority before any development is commenced and the development shall be carried out as approved.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004

Time Limit – Reserved Matters

2. The first application for approval of reserved matters referred to in Condition (1) must be made to the local planning authority no later than the expiration of three years beginning with the date of the grant of outline planning permission.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

3. The first phase of development to which this permission relates must be begun not later than the expiration of two years from the final approval of the relevant reserved matters.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

Phasing

4. No development shall take place until a Phasing Plan, which shall include justification for the proposed Phases, demonstrate the timescale for the delivery of the development and include the order of the delivery of the proposed phases, has been submitted to and approved in writing by the Local Planning Authority. The phasing of the development shall not be carried out otherwise than in accordance with the approved plan.

All reserved matters submissions shall be in accordance with the Phasing Plan as approved by the Local Planning Authority, unless otherwise agreed with the Local Planning Authority. Any references to a Phase of the development within this permission shall be taken to be a reference to phases as identified within the Phasing Plan submitted under this condition.

Reason: To ensure the development proceeds in a satisfactory manner. The objectives and purposes of this condition are such that it is required to be complied with before commencement. As such, those objectives and purposes would not be met if expressed other than as a pre-commencement condition.

Approved Plans

5. The development hereby permitted shall be carried out in accordance with the following approved drawings and documents:
- 2805-SK21D Site Layout (including application site boundaries)
 - 789/213B Swept Path Analysis - Turning
 - 789/212B Swept Path Analysis – Access

Reason: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with this application.

Housing Mix

6. Prior to submission of the first reserved matters for each phase, the details of housing mix shall be submitted to and approved in writing by Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason: To ensure that housing mix is aligned to housing need of the district as far as practicable and feasible.

Levels

7. Any reserved matters application(s) which covers the matter of 'scale' shall include a detailed levels survey of the site and cross-sections showing:
- Existing ground levels on site (spot heights) including a datum point that is located off site. Levels should be Above Ordnance Datum (AOD).
 - The level of the roads outside the site. (AOD)
 - The proposed levels on site following completion of the development (for each existing height a proposed height should be identified).
 - The location and type of any retaining structures needed to support ground level changes.
 - Finished Floor Levels for proposed buildings.
 - The information supplied should clearly identify if land levels are being raised or lowered.

Reason: Understanding level changes and finished floor levels is necessary to ensure that the work is carried out at suitable levels in the interests of the character and appearance of the area, to safeguard wider views, and protect residential amenities.

Landscaping

8. Any reserved matters application(s) which covers the matter of 'Landscaping' shall include:
- Plans, drawings, sections, and specifications to explain full details of the hard and soft landscaping treatment and works including: planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes, numbers and densities where appropriate, materials (size, type and colour), proposed drainage arrangements, children's informal play equipment, street furniture, lighting columns, private and communal areas, open spaces, edges, boundary treatments, public rights of way and roads;
 - Tree planting details (including street trees and hedge rows) and specification of all planting in hard and soft landscaped areas, to include provision for advanced planting to the northern and southern boundary of the site.
 - The open space details shall demonstrate that there will be no Sustainable Urban Drainage Systems located within private gardens or play areas.
 - Details of the programme for implementing and completing the planting.
 - An Arboricultural Method Statement produced in accordance with BS5837.
 - A Tree Protection Plan showing trees that would be retained and the arrangement of temporary protection measures that would be installed prior to the commencement of development.

- A methodology for any special construction that is required to ensure the success of proposed tree retention.
- A detail for any temporary construction measures, products or construction methods that are specified.
- Details of a proposed watching brief, monitoring or reporting.
- Significant landscaping provided within the core of the site and internal streets and roads are tree lined.

Reason: In order that the Reserved Matters Applications can be properly considered and assessed, in the interests of proper planning.

9. All new planting, seeding or turfing comprised in the landscaping reserved matters shall be carried out in the first planting and seeding seasons following the completion of any particular phase. Any trees or plants, including retained trees and shrubs identified in the landscaping reserved matters, which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

Secure by Design

10. The details submitted pursuant to condition (1) (the reserved matters) shall include details demonstrating how the development meets the principles of 'secure by design', particularly in relation to natural surveillance.

Reason: In the interests of crime prevention and safety.

Masterplan compliance

11. The details submitted pursuant to condition 1 (the reserved matters) shall show the general residential areas restricted to the area shown on drawing ref. 2805-SK21D (Proposed Site Layout).

Reason: In the visual interests, to protect the landscape setting and ensure high-quality development that provides adequate ecological mitigation and appropriate open space for future occupiers.

Maximum height

12. The details submitted pursuant to condition 1 (reserved matters) shall demonstrate that residential dwellinghouses shall be no more than two stories in height and apartment buildings shall be no more than three stories or 12 meters in height.

Reason: In the interest of visual amenities.

Details of Materials

13. No development above the construction of foundations in a particular phase shall commence until full details of the materials to be used in the construction of the external surfaces of the dwellings in that phase have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: In order to further secure good design and a satisfactory appearance.

Archaeology

14. To assess and mitigate the impacts of development on significant archaeological remains:
- A) Before the submission of the reserved matters application, the applicant (or their agents or successors in title) shall secure and have reported a programme of archaeological field evaluation works, in accordance with a specification and written timetable which has been submitted to and approved by the local planning authority.
- B) Following completion of archaeological evaluation works, no development shall take place until the applicant or their agents or successors in title, has secured the implementation of any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the local planning authority.
- C) The archaeological safeguarding measures, investigation and recording shall be carried out in accordance with the agreed specification and timetable.

Reason: To ensure that features of archaeological interest are properly examined and recorded in accordance with policies in the Local Plan and the National Planning Policy Framework.

15. Within six months of the completion of archaeological works, a Post-Excavation Assessment Report shall be submitted to and approved in writing by the local planning authority. The Post-Excavation Assessment Report shall be in accordance with Kent County Council's requirements and include:
- a. a description and assessment of the results of all archaeological investigations that have been undertaken in that part (or parts) of the development;
- b. an Updated Project Design outlining measures to analyse and publish the findings of the archaeological investigations, together with an implementation strategy and timetable for the same;
- c. a scheme detailing the arrangements for providing and maintaining an archaeological site archive and its deposition following completion.

The measures outlined in the Post-Excavation Assessment Report shall be implemented in full and in accordance with the agreed timings.

Reason: To ensure that features of archaeological interest are properly examined and recorded in accordance with policies in the Local Plan and the National Planning Policy Framework.

Water Consumption

16. The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and the dwellings shall not be occupied unless the notice for that dwelling of the potential consumption of water per person per day required by the Building Regulations 2015 (As amended) has been given to the Building Control Inspector (internal or external).

Reason: In the interests of water conservation and sustainability.

Accessible and Adaptable Dwellings

17. At least one of the affordable units hereby permitted shall be built to M4(3) of building regulations standards and all of the remaining units will be built to M4(2) of building regulations standards.

Reason: In order to secure accessible and adaptable dwellings.

Energy

18. Prior to the commencement of development hereby approved, details of the materials and measures to be used to increase energy efficiency and thermal performance and reduce carbon emissions and construction waste shall be submitted to and approved in writing by the Local Planning Authority.

The details shall demonstrate that at least a 50% reduction in Dwelling Emission Rate compared to the Target Emission Rates as required under Part L1A of the Building Regulations 2013 (as amended) will be achieved.

The development shall thereafter be carried out in accordance with the approved details.

Reason: In the interest of promoting energy efficiency and sustainable development.

Air Quality

19. The development shall deliver and install the costed and agreed on-site air quality mitigation as detailed in section 5 of the 'Emissions Mitigation Statement' V1.1 dated 28/08/2024 by Entran prior to occupation of each of the dwellings.

A verification report shall be submitted to the Local Planning Authority within 1 month of the approved measures being installed and approved in writing by the Local Planning Authority.

Reason: To ensure that the localised air quality impact is appropriately mitigated as a result of the proposed development.

Public Rights of Way Improvements

20. Details of improvements to public footpaths ZR91 and ZR93 within the application site boundary, to include resurfacing and to provide a minimum width of 2 metres, shall be submitted to and approved in writing by the Local Planning Authority prior to their implementation. The approved details shall be implemented in full prior to the occupation of the 45th dwelling within the development hereby approved.

Reason: To ensure that public footpaths within the site are adequately safeguarded.

Open Space

21. No development shall take place beyond the construction of foundations until a plan identifying the extent of all areas of public open space and communal landscaping, together with full details of hard and soft landscaping proposals (which for the avoidance of doubt shall include trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers, details of an entrance feature to the open spaces, play equipment, paths, bins, seating, lighting and enclosures) for such areas, maintenance, management and an implementation timetable, has been submitted to and approved in writing by the Local Planning Authority.

The development shall be carried out in accordance with the approved details.

Reason: To ensure that appropriate open space and landscaping is provided within the development.

22. The informal play area, as shown on the indicative masterplan (ref 2805-SK21D (Site Layout)), shall include informal (natural) play equipment and street furniture (benches/picnic benches). The details of the play area shall be provided with any future reserved matters application for this land.

The details shall be implemented, and the play area created prior to the occupation of the 40th dwelling and thereafter retained and maintained.

Reason: To ensure that useable open space typologies are provided on-site in line with policy DM17 of the Local Plan.

Ecology

23. Prior to the commencement of development (including site clearance), an Ecological Mitigation and Management Plan (EMMP) shall be submitted to and approved in writing by the Local Planning Authority. The EMMP shall be based on the recommendations in Ecological Overview and Mitigation Report, Corylus Ecology, 30th April 2024. It shall provide detailed avoidance and mitigation measures to be carried out on site, together with a timetable for implementation. The development shall be carried out in accordance with the approved details. The EMMP shall include the following:

- a) Risk assessment of potentially damaging site clearance and construction activities;
- b) Further surveys, if required, to inform the measures within the EMMP;
- c) Extent and location of proposed mitigation measures, shown on appropriate scale maps and plans;
- d) Identification of 'biodiversity protection zones';
- e) Practical measures (both physical measures and sensitive working practises) to avoid or reduce impacts during site clearance and construction (may be provided as a set of method statements);
- f) The location and timing of sensitive works to avoid harm to biodiversity features;
- g) The times during construction when specialist ecologists need to be present on site to oversee works;
- h) Responsible persons and lines of communication;
- i) The role and responsibilities on site of an ecological clerk of works or similarly competent person;
- j) Use of protective fences, exclusion barriers and warning signs.
- k) The implementation of the mitigation prior to the work commencing on-site;

The approved EMMP shall be adhered to and implemented throughout site clearance and the construction period in accordance with the approved details.

Reason: To ensure that any adverse ecological impacts of development activities are avoided or suitably mitigated.

24. Prior to the commencement of the development (including site clearance), a Biodiversity Enhancement Plan (BEP), setting out details for the enhancement of biodiversity on the site, shall have been submitted to and approved in writing by the Local Planning Authority.

The scheme shall consist of the enhancement of biodiversity through durable integrated methods into the design and appearance of the buildings by means such as swift bricks, bat tubes or bee bricks. The BEP shall be based on the outline proposals in Ecological Overview and Mitigation Report, Corylus Ecology, 30th April 2024.

The development shall be implemented in accordance with the approved details, and all features shall be maintained thereafter.

Reason: To ensure that the losses of biodiversity can be compensated for and a net gain in biodiversity delivered in accordance with the requirements of the NPPF, and that the proposed design, specification and planting can demonstrate this.

25. A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to the completion of site access works of the development. The content of the LEMP shall include the following.
- a) Description and evaluation of features to be managed, including ecological and habitat areas and
 - b) Ecological trends and constraints on site that might influence management;
 - c) Aims and objectives of management;
 - d) Appropriate management options for achieving aims and objectives;
 - e) Prescriptions for management actions, together with a plan of management compartments;
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
 - g) Details of the body or organisation responsible for the implementation of the plan;
 - h) Monitoring measures to demonstrate that the aims and objectives of management are being achieved, including:
 - Identification of adequate baseline conditions prior to the start of development;
 - Methods for data gathering and analysis;
 - Location of monitoring and timing and frequency of monitoring;
 - Responsible persons and lines of communication.
 - i) Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: In the interests of ensuring positive management of habitat created to maintain their conservation value.

26. No external lighting shall be installed until a detailed scheme of lighting has been submitted to, and approved in writing by the Local Planning Authority.

This scheme shall take note of and refer to the Institute of ILP Guidance Note 01/21 The Reduction Of Obtrusive Light (and any subsequent revisions) and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill.

The lighting scheme shall be installed, maintained, and operated in accordance with the approved scheme.

Reason: In the interests of protected species, visual and neighbouring amenity.

Drainage

27. Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the Local Planning Authority. The detailed drainage scheme shall be based upon the Surface Water Management Strategy incorporating a Flood Risk Assessment (Amended, RMB Consultants (Civil Engineering) Ltd December 2023), 789/DSO/B Illustrative Drainage Layout Overview Drawing, Foul Water Drainage Strategy, RMB Consultants (Civil Engineering) Ltd December 2023 and subsequent Technical Drainage Note, 8th March 2024, and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

The drainage scheme shall include details of measures to mitigate the risk of flooding along watercourse corridors and land low spots. The details shall include consideration of flood resilience measures, exceedance routes away from buildings and finished floor level for any dwellings close to these locations.

The drainage scheme shall also demonstrate (with reference to published guidance) that appropriate operational requirements for each drainage feature or SUDS component are adequately considered and that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.

The drainage scheme shall be implemented in accordance with the approved details.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

28. Prior to the commencement of development, a maintenance schedule for the surface water drainage system shall be submitted to and approved by the Local Planning Authority. The schedule shall specify ownership and any proposed arrangements for future adoption by a public body or statutory undertaker. The schedule shall specify a timetable for implementation, and it shall provide a management and maintenance plan for the lifetime of the development. All SuDS should be located in accessible areas, and the plan should include addressing the frequency of maintenance for each SuDS feature based on guidance in the CIRIA SuDS Manual 2015 as well as details of who will carry out the maintenance.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

29. No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system, and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority.

The Verification Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as-built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 175 of the National Planning Policy Framework.

Hours of Construction Activity

30. No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:

Monday to Friday 0730 – 1900 hours,

Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

Contaminated Land

31. The development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the Local Planning Authority:

- 1) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
- 2) A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- 3) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a

verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

- 4) A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in 3. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean; Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.

Reason: In order to adequately deal with any contaminated land.

32. If during development, contamination not previously identified is found to be present at the site, then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted and obtained written approval from the Local Planning Authority, details of how this unsuspected contamination shall be dealt with.

Reason: To ensure that the development complies with the approved details in the interests of protection of Controlled Water.

Highways

33. Prior to the commencement of development (including any works of site clearance or preparation) a Construction Traffic Management Plan shall be submitted to, and approved in writing by, the Local Planning Authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall include, as a minimum:
 - a) Construction phasing
 - b) Routing of construction and delivery vehicles
 - c) The parking and turning areas for vehicles of site operatives and visitors
 - d) Loading and unloading of plant and materials
 - e) Timing of deliveries
 - f) Recording the condition of the immediate local highway prior to commencement, and measures to make good any damage attributed to construction traffic
 - g) Wheel washing facilities
 - h) Temporary traffic management / signage.
 - i) Any requirements for temporary construction access

Reason: In the interests of the amenities of the area and highway safety and convenience and to mitigate any adverse impact from the development on the A249 in accordance with DfT Circular 01/2022 and section 10 of the Highways Act 1980. These details are required prior to commencement to ensure that satisfactory measures are in place prior to any construction activity.

34. No dwelling hereby approved shall be occupied until the access to the site and off-site highway works to The Street, as shown on plan D205/06 Rev E, have been constructed in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and convenience.

35. Any application submitted for the approval of Reserved Matters shall include details of areas for the parking and manoeuvring of vehicles in the development in accordance with the Council's adopted Parking Standards SPD.

No dwelling shall be occupied until vehicle parking and turning space for that dwelling has been provided and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking and turning of vehicles is likely to lead to parking inconvenient to other road users and be detrimental to highway safety and amenity.

36. Prior to the occupation of any dwelling the following works between the dwelling and the adopted highway shall be provided:
- (a) Footways and/or footpaths, with the exception of the wearing course;
 - (b) Carriageways, with the exception of the wearing course but including a turning facility, highway drainage, visibility splays, street lighting, street nameplates and highway structures (if any).

Reason: To ensure the development is accessible and safe for future occupiers.

37. Prior to the occupation of the 30th dwelling within the development hereby approved, a minimum of two footway links to Sanderling Way shall be provided, as shown on the drawing ref. 2805-SK21D (Site Layout).

Reason: To ensure high-quality design and sustainable, permeable and legible extension to the village is created.

Travel Plan

38. Prior to the occupation of the first dwelling a detailed Travel Plan, to reduce dependency on the private car, shall be submitted to and approved in writing by the Local Planning Authority.

The Travel Plan shall include objectives and modal-split targets, a programme of implementation and provision for monitoring, review and improvement.

Thereafter, the Travel Plan shall be put into action and adhered to throughout the life of the development, or that of the Travel Plan itself, whichever is the shorter.

Reason: In the interests of promoting sustainable travel.

Electrical vehicle charging

39. No dwelling shall be occupied until full details of the electric vehicle charging (which shall be in accordance with the details set out in the Swale Parking SPD) have been submitted to and approved in writing by the Local Planning Authority. The agreed details shall then be implemented for each house before the dwelling in question is first occupied. All Electric Vehicle chargers must be provided to Mode 3 standard (providing a minimum of 7kw). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list:

<https://www.gov.uk/government/publications/electric-vehicle-homecharge-schemeapproved-chargepoint-model-list>

Reason: In the interests of encouraging sustainable modes of transport and minimising the carbon footprint of the development.

Cycle storage

40. No dwelling shall be occupied until covered, secured cycle parking facilities have been constructed and space has been laid out for cycles to be securely sheltered and stored for that dwelling within the site, in accordance with details to be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any dwelling.

Reason: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of sustainable development and promoting cycle visits.

INFORMATIVES

Construction

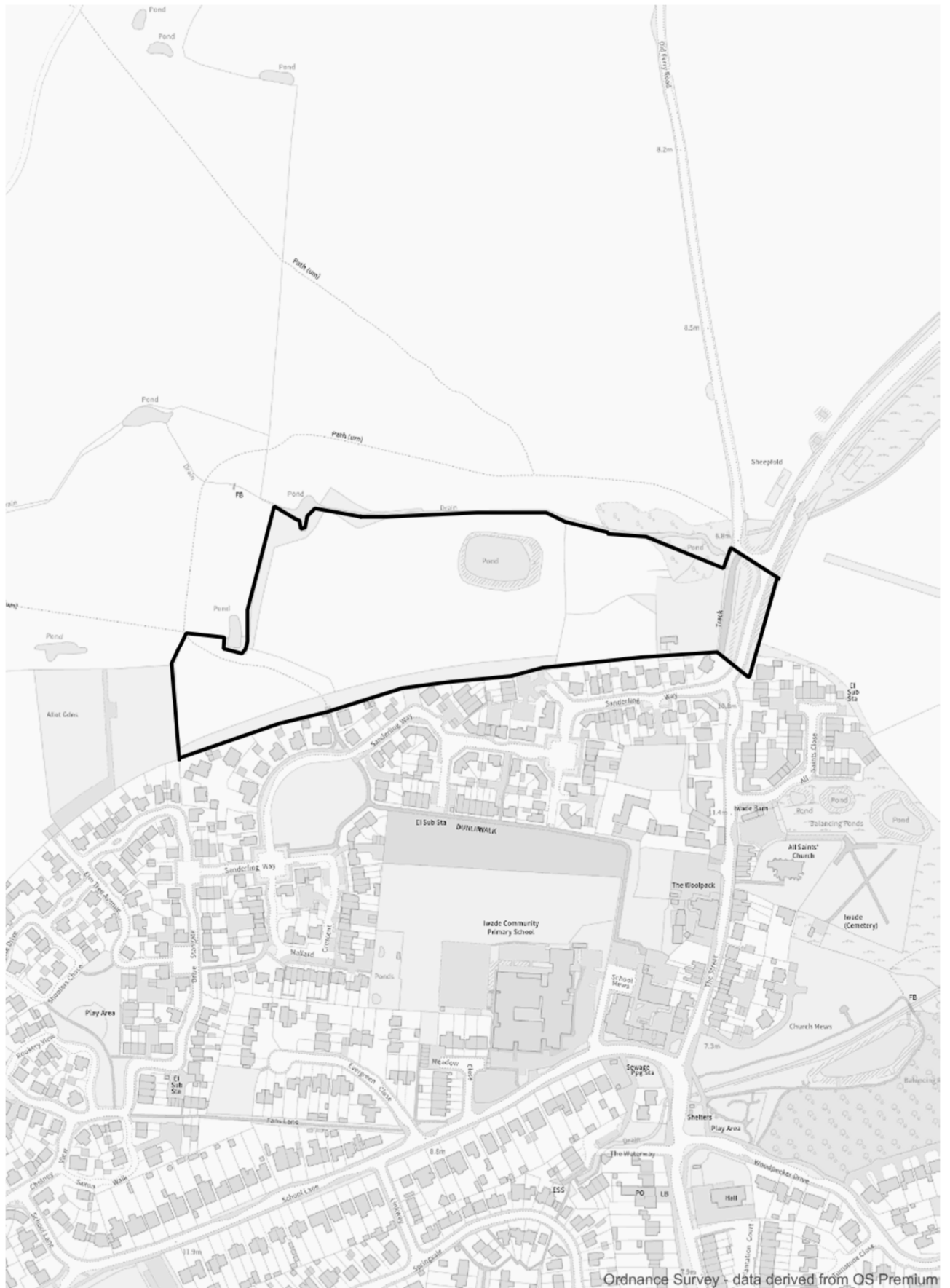
As the development involves construction, it is recommended that the Applicant reviews the Mid Kent Environmental Code of Development Practice. Broad compliance with this document is expected.

Ecology

The Applicant is advised that should the development not commence within two years, an updated Preliminary Ecological Appraisal is likely to be required in any future submissions (reserved matters and/or discharge of ecological mitigation conditions).

The Council's approach to the application

In accordance with paragraph 39 of the National Planning Policy Framework (2024), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a preapplication advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants/agents of any issues that may arise in the processing of their application. In this instance the applicant was provided with extension of time to allow opportunities to submit revised proposals and additional information to overcome concerns.



2.2 REFERENCE NO 24/502180/FULL			
PROPOSAL Change of use of disused car parks to commercial vehicle sales forecourts with associated sales office, toilet block, refuse storage, perimeter fencing, and lighting and CCTV (partly retrospective).			
SITE LOCATION Car Parks Adjacent To Sheppey Street, Blue Town, Isle Of Sheppey, ME12 1TQ			
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions as set out in the report, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions.			
APPLICATION TYPE Minor			
REASON FOR REFERRAL TO COMMITTEE Called in by Cllr Brawn			
Case Officer Megan Harris			
WARD Sheerness	PARISH/TOWN Sheerness	COUNCIL	APPLICANT Mr P Rooney AGENT Refine Architecture Ltd
DATE REGISTERED 14/06/24		TARGET DATE 28/11/24	
BACKGROUND PAPERS AND INFORMATION: Documents referenced in report are as follows: - All drawings submitted Heritage Statement dated June 2024 (uploaded on 14/06/24) Flood Risk Assessment dated June 2024 (uploaded on 14/06/24) Lighting Assessment dated 28.05.24 (uploaded on 04/09/24) All representations received The full suite of documents submitted pursuant to the above application are available via the link below: - https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=SDZADKTYI8C00			

1. SITE LOCATION AND DESCRIPTION

- 1.1 The application site is set within the built up area boundary of Sheerness, within Blue Town, which lies to the west of the town centre. The site comprises two disused car parks which are divided by Sheppey Street. The western car park is rectangular in shape and measures approximately 56m x 32m. The eastern car park is roughly triangular, measuring 100m x 54m at its longest dimensions.
- 1.2 The car parks are located to the north of Brielle Way, beyond which is a large industrial site associated with the Port of Sheerness. The site is bounded by residential development on Charles Street and East Street to the north, industrial units to the north east and an adjacent car park to the west.

- 1.3 Upon viewing historic aerial images of the site, both car parks appear to have been used as such since at least 1999, whilst historically there were a mixture of residential and industrial uses at the site. The car parks appeared to have been used privately, likely in association with the nearby industrial site to the south, but the use of both car parks ceased a number of years ago.
- 1.4 The site lies within Flood Zone 3, an area of potential archaeological importance and is within the setting of the Royal Naval Dockyard and Blue Town Conservation Area, which lies to the north. It is also in close proximity to two designated heritage assets: the Grade II listed No. 3 Union Street and the Grade II listed A G Smith and Sons Depository, both situated to the northwest of the site.

2. PLANNING HISTORY

- 2.1 **SW/92/0399** – Outline planning permission granted on 21.08.1992 for ‘250 space multi-storey car park’.
- 2.2 **SW/82/0057** – Outline planning permission granted on 16.03.1982 for ‘Light industrial development’.

3. PROPOSED DEVELOPMENT

- 3.1 This application seeks partly retrospective planning permission for the change of use of the disused car parks to commercial vehicle sales forecourts with an associated sales office, toilet block, refuse storage, perimeter fencing, lighting and CCTV.
- 3.2 The sales office (marketing suite), toilet block and refuse storage are shown within the submissions to be located on the larger, eastern car park. The sales office is located along the western boundary and sits just north of the access into the eastern car park. It is shown to measure approx. 3m x 7.3m in footprint, with a flat roof with a height of approx. 2.8m. The toilet block is located along the northern boundary and measures approx. 1.4m x 2.4m in footprint, with a height of approx. 2.6m. The refuse storage sits immediately north of the sales office and measures approx. 1.4m x 3m in footprint, with a height of approx. 1.9m.
- 3.3 Across both car parks, 50 parking spaces for vehicular sales will be provided, with 9 visitor parking spaces also provided within the eastern car park. Lighting columns are also proposed, which will also be fitted with directional CCTV cameras. Ten columns are proposed across the two car parks, and each column will measure approx. 5.9m in height.
- 3.4 Both car parks have been enclosed by mesh fencing, which is approx. 2.4m in height. Access to both sites, which is provided from Sheppey Street is enclosed by electronic sliding gates.
- 3.5 During the course of the application the agent proposed the hours of opening are Monday to Friday 08:00 - 18:00 and Saturday 08:00 - 13:00. The business is operating from the site and involves the sale of Heavy Goods Vehicle cabs and Light Commercial Vehicles.

4. CONSULTATION

- 4.1 Three rounds of consultation with neighbours and the Town Council have been undertaken. Two site notices were also displayed at the site and the application was advertised in the press twice. Consultation took place after the description was changed to refer to the development as partly retrospective and the number of lighting columns was increased from nine to ten.

- 4.2 Five comments from three neighbours objecting to the application have been received. Their comments are summarised below:

Comment	Report reference
Development will exacerbate existing parking problems.	See paragraph 7.23
This site is in a residential area, where the roads are small and unsuitable for the kind of traffic this will bring.	See paragraph 7.24
Lighting will impact the amenity of dwellings that face onto the site.	See paragraph 7.15
CCTV cameras will impact neighbouring residents right to privacy in their homes.	See paragraph 7.16
The toilet block is too close to residential properties, likely to result in odour problems. It is also unsightly.	See paragraph 7.14
When development was first being built, workmen advised site was only to be used for the storage of trucks. This application far exceeds what local residents were initially told.	See paragraph 7.33
Proposal could affect any possible sale of the houses in the local area.	See paragraph 7.33
Development is unsightly.	See paragraph 7.10 – 7.12

- 4.3 Cllr Brawn, one of the Ward Members for the area, has called in the application for determination by Planning Committee, noting an awareness that a few residents object to the proposal, one of which has been in contact for a number of months due to the application being submitted a considerable amount of time after the work started. On this basis it has been requested that the application be reported to Planning Committee so that, regardless of the outcome of the application, residents will be able to have their objections heard and be able to hear the reasons why it is accepted if the application is approved.

5. REPRESENTATIONS

- 5.1 **KCC Highways** – Initially requested details of vehicle tracking. These details were provided and KCC confirmed that they have no objection to the scheme subject to conditions relating to the provision and retention of the vehicle turning areas within the site and the routing of construction and delivery vehicles to and from site via Brielle Way only. Also set out the Local Planning Authority may be minded to condition a restriction on vehicles turning right onto Sheppey Street/Charles Street.

- 5.2 **Mid Kent Environmental Health** – Initially requested further information regarding the type of business that will occupy the site and hours of opening. Also requested a lighting assessment. Through several rounds of consultation, a lighting assessment was provided that Environmental Health confirmed that they were satisfied with, subject to a condition securing the installation of the lights in accordance with the assessment. Environmental Health also confirmed the hours of use and type of vehicles to be sold are noted and are acceptable, and therefore there is no objection from a noise perspective.
- 5.3 **Environment Agency** – No objection.
- 5.4 **SBC Heritage** – The proposal will cause no harm to the significance of the nearby heritage assets.
- 5.5 **KCC Archaeology** – As the development works do not involve significant ground excavations and are retaining the existing hardstanding, no archaeological measures are needed.
- 5.6 **Natural England** – No objection. The proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.
- 5.7 **Health and Safety Executive** – The site is nearby a licensed explosive port, and provided the development does not constitute the definition of a ‘vulnerable building’, HSE have no comments to make. Officer note: the development does not meet the definition of a ‘vulnerable building’ as defined by HSE.

6. DEVELOPMENT PLAN POLICIES

6.1 **Bearing Fruits 2031: The Swale Borough Council Local Plan 2017**

ST 1 Delivering sustainable development

ST 3 Swale Settlement Strategy

ST 6 The Isle of Sheppey area strategy

CP 1 Building a strong, competitive economy

CP 4 Good design

CP 7 Conserving and enhancing the natural environment – providing for green infrastructure.

CP 8 Conserving and enhancing the historic environment

DM 1 Maintaining and enhancing the vitality and viability of town centres and other areas

DM 6 Managing transport demand and impact

DM 7 Vehicle parking

DM 14 General development criteria

DM 19 Sustainable design and construction

DM 21 Water, flooding & drainage

DM 28 Biodiversity and geological conservation

DM 32 Listed buildings

DM 33 Conservation areas

DM 34 Scheduled monuments and archaeological sites

6.2 **Supplementary Planning Guidance/Documents**

Supplementary Planning Document - Swale Parking Standards

Supplementary Planning Guidance - Listed Buildings and Conservation Areas

7. ASSESSMENT

- 7.1 This application is reported to the planning committee due to the call in from Cllr Brawn. Considering the proposal that has been submitted, the committee is recommended to carefully consider the following main points:
- The Principle of Development
 - Character and Appearance, including Heritage Impact
 - Living Conditions
 - Transport and Highways
 - Flood Risk and Drainage
 - Ecology
- 7.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.
- 7.3 The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.

Principle of Development

- 7.4 Policy ST3 of the Local Plan supports the principle of development within the built-up area boundary of established towns and villages within the borough. Moreover, the NPPF sets out the importance of helping to build a strong, responsive and competitive economy, stating that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The NPPF also promotes the use of previously developed land.
- 7.5 The site lies within the built up area boundary, within an area characterised by a mixture of commercial and residential development. The proposal makes use of two vacant car parks, and provides a commercial use on a previously underutilised site. The scheme is therefore considered to be in compliance with the overarching aims of Policy CP1 of the Local Plan, which relates to building a strong, competitive economy. The development introduces an employment use to the site, and is therefore acceptable in principle, subject to the further material considerations set out in detail below.

Character and Appearance, including Heritage Impact

- 7.6 The National Planning Policy Framework attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement.
- 7.7 Policies CP4, DM14 and DM16 of the Local Plan require development proposals to be of high-quality design and to be in keeping with the character of the area. They state that particular regard should be paid to the scale, height, materials, detailing, mass, bulk, articulation and site coverage of any proposals.
- 7.8 The National Planning Policy Framework states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan under Policies DM32 and DM33.

- 7.9 As set out in the description above, the site is considered to be within the setting of listed buildings and the Royal Naval Dockyard and Blue Town Conservation Area. On this basis advice has been sought from the SBC Heritage, who raise no concerns regarding the proposal. On this basis, the proposal is not considered to cause any harm to the significance of the nearby heritage assets in terms of the National Planning Policy Framework.
- 7.10 The site was previously in use as a private car park, and it is not considered that the change of use to a vehicle sales forecourt is dissimilar to this previous use from a visual perspective. The additional buildings on the site, namely the sales office, toilet block and refuse store are all limited in scale, and assimilate well with the surrounding built form due to their small footprint and overall height.
- 7.11 The boundary fencing and gates do introduce a tall form of enclosure at the site, however given the presence of similar fencing on the industrial site to the south of the site on the other side of Brielle Way, it is not considered that the fencing appears out of place. Moreover, due to the mesh design of the fencing, it does not restrict views or create a solid visual barrier and, therefore, is not overly imposing within the streetscene.
- 7.12 Ten lighting columns with CCTV cameras are also proposed around the site, however similar features already exist in the surrounding area, and therefore the columns would not cause any harm to the appearance of the site or its surroundings.
- 7.13 Taking the above into account and having fulfilled the duty to have special regard to the desirability of preserving the setting of listed buildings and the duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the adjacent Conservation Area, in respect of the character and appearance of the proposal the scheme and heritage impact is considered to comply with Policies CP4, DM14, DM32 and DM33 of the Local Plan and the NPPF and will not give rise to harm to the character and appearance of the site or wider streetscene.

Living Conditions

- 7.14 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers. Similarly, paragraph 135 of the NPPF states that development should create places with a high standard of amenity for existing and future users.
- 7.15 The application site is surrounded by residential properties to the north. The items and structures at the site, namely the fencing, gates, and small buildings, have the potential to impact on the living conditions of the occupiers of these properties and these potential impacts are therefore assessed below.
- 7.16 The sales office and refuse store are located approximately 19m from the closest dwelling, and taking into account this distance and the limited scale of these structures, it is not considered that they result in any substantial harm to neighbouring amenity. The toilet block is located roughly 5.5m from the closest dwelling. However, there will be no harmful overshadowing or overbearing impacts due to its limited height. An objector has raised concerns regarding potential odours from the toilet, however as it is a contained facility and waste will be appropriately disposed of, it is not considered there will be any significantly harmful impacts to neighbouring amenity.
- 7.17 Ten lighting columns are proposed at the site, which will provide security lighting. During the course of the application, further information was required in order to demonstrate that the proposed lighting would not harmfully impact neighbouring amenity. The lighting assessment provided was amended several times to reduce overspill lighting levels beyond the boundary of the site and onto the facades of the residential premises to a reasonable level. The Environmental Health advice received notes that the illumination

spill would now be below the levels given in the ILP guidance for an E3/E4 Environmental Zone post curfew (ie at night time). On this basis, the lighting is considered acceptable, and a condition is imposed to ensure it is installed in accordance with the lighting scheme.

- 7.18 The lighting columns will be fitted with CCTV cameras and objectors have raised concerns about a loss of privacy, however the cameras will face into the site.
- 7.19 The change of use from a car park to a commercial vehicles sales business could result in additional noise and disturbance to neighbours. Limited information about how the business would operate was initially provided, and the Mid Kent Environmental Health Officers therefore requested the submission of further information regarding the hours of use and type of business that will operate from the site. The agent set out the hours of opening are Monday to Friday 08:00 - 18:00 and Saturday 08:00 - 13:00. The business is now operating from the site, and involves the sale of Heavy Goods Vehicle cabs and Light Commercial Vehicles. The Environmental Health Officers reviewed these details and consider them to be acceptable, and raise no objection on a noise basis. A condition is included below to limit the hours of opening to the aforementioned times, to ensure the application does not result in unacceptable noise to neighbours.
- 7.20 Taking the above into account, the scheme is considered to be acceptable and would not cause any substantial harm to the living conditions of neighbours. As such the proposal is accord with Policy DM14 of the Local Plan and the NPPF in this regard.

Transport and Highways

- 7.21 The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that development should actively manage patterns of growth to promote walking, cycling and public transport use and to focus development on locations which are sustainable.
- 7.22 The NPPF also states that:
- “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe.”*
- 7.23 Local Plan policy promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm. SBC Vehicle Parking Standards Supplementary Planning Document (SPD), which is pursuant to Policy DM7 of Local Plan, was adopted by the Council in June 2020 and is a material consideration in the determination of planning applications.
- 7.24 The proposal utilises the existing accesses into the sites from Sheppey Street. Following initial comments from KCC Highways, swept path drawings have been provided showing that there is sufficient turning space for vehicles to manoeuvre within the site and egress back onto the highway in a forward gear. Due to the narrow nature of Sheppey Street and Charles Street to the north, it is important that the use of those roads is limited, and a condition is imposed below to that effect. KCC Highways raise no objections to the development with this condition in place.
- 7.25 The proposed block plan shows that 50 parking spaces will be provided for vehicles that would be for sale, with 9 visitor parking spaces also provided. KCC Highways raises no concerns regarding the parking provision on site, and taking into account the development will only employ one full-time staff member, the provision of 9 visitor

parking spaces is considered acceptable, and unlikely to lead to additional parking in surrounding roads.

- 7.26 On the basis of the above, the development is considered to comply with Policy DM7 of the Local Plan and the NPPF and is acceptable from a highways perspective.

Flood Risk and Drainage

- 7.27 Policy DM21 of the Local Plan relates to water, flooding and drainage. The policy states that when considering the water-related, flooding and drainage implications of development, proposals should accord with national planning policy and planning practice guidance, and inappropriate development in areas at risk of flooding and in areas where development would increase flood risk elsewhere should be avoided. The policy states that site specific flood risk assessments should be carried out to the satisfaction of the Environment Agency and, where relevant, the Internal Drainage Board.

- 7.28 The site lies in Flood Zone 3 and is at high risk from tidal and fluvial flooding. It is pertinent to consider whether the proposal would be appropriately located in relation to this identified flood risk. A Flood Risk Assessment (FRA) has been provided and the Environment Agency have reviewed this document and have no objections to the application from a flood risk perspective.

Both national and local policy sets out that new development will only be permitted if it can be demonstrated that it satisfies the requirements of the sequential test, and where required, the exception test. The NPPF does set out at paragraph 176 that applications for some minor development and changes of use should not be subject to the sequential or exception tests. In this case, the development primarily amounts to a change of use, and as such, a sequential test is not required. Where other developments are proposed, they are directly related to the change of use of land and, as such, there would be no other logical place to provide these elements. Therefore, the proposal is considered acceptable in the context of the flood risk sequential test. Due to the development falling within the less vulnerable category of uses, the exception test is not required to be applied.

- 7.29 On the basis of the above, the scheme is considered to comply with Policy DM21 and the NPPF in this respect.

Ecology

- 7.30 The NPPF and Local Plan Policy DM28 requires that development proposals will conserve, enhance and extend biodiversity, provide for net gains in biodiversity where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.

- 7.31 No ecological information has been submitted with the application. The site is currently composed entirely of sealed surfaces and therefore has an intrinsically low biodiversity baseline.

- 7.32 From April 2024, minor developments are required to provide at least 10% Biodiversity Net Gain (BNG). There are exemptions to this, including the de minimis exemption. This only applies when the following two conditions are met. Firstly the development must not impact on any onsite priority habitat and secondly, if there is an impact on other onsite habitat, that impact must be on less than 25 square metres (e.g. less than a 5m by 5m square) of onsite habitat with a biodiversity value greater than zero and on less than 5 metres of onsite linear habitat (such as a hedgerow).

7.33 In this case, there are no priority habitats on site. The development will be located on existing hardstanding, which would be classified as developed land: sealed surface which has a biodiversity value of zero under the statutory biodiversity metric. There are no further habitats within the red line edge shown on the site location plan, and on this basis, the development would be exempted from biodiversity net gain by the de minimis exemption.

Other Matters

7.34 The majority of the concerns raised by neighbours have been addressed in the sections above, however the outstanding concerns, will be discussed here. Impacts to house values or sales does not amount to a material planning consideration, and as such cannot be taken into account in the determination of this application. Concern has also been raised that local residents were initially told that site was only to be used for the storage of trucks. This application must be determined on its own merits, and whilst the use may be more intensive than neighbours were initially told, this application is submitted for the use stated and public consultation has been carried out as part of the application process. For the reasons set out above, it is considered to be acceptable.

Conclusion

7.35 The development makes use of disused car parks, and provides an employment use in a location suitable for commercial development. Limited built form has been erected on site to facilitate the operation of the business, and subject to the below conditions, the development will not cause harm to neighbouring or visual amenities, or highway safety or convenience. On the basis of the above, it is recommended that planning permission be approved.

CONDITIONS

(1) The development hereby permitted shall be carried out in accordance with the following approved plans:

24_17-PL-03 B – Proposed Block Plan

24.17-PL-05 A – Proposed Marketing Suite/Toilet Block/Lighting Column/Bin Store/fence Plans and Elevations

1437-SK02 A – Proposed Layout

1437-SK03 A – Vehicle Tracking – Access to Site

1437-SK04 A – Vehicle Tracking – Access to Site

Reason: In the interests of proper planning and for the avoidance of doubt.

(2) The vehicle parking spaces and turning areas shown on approved drawings 1437-SK02 A, 1437-SK03 A and 1437-SK04 A shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto.

Reason: Development without adequate provision for the parking of cars is likely to lead to car parking inconvenient to other road users.

(3) Construction and delivery vehicles travelling to and from the site shall access the site via Brielle Way only, and no vehicles leaving the site shall turn northbound onto Sheppey Street/Charles Street.

Reason: In the interests of highway safety and convenience.

- (4) The external illumination of the site as shown on approved drawing 24_17-PL-03 B shall be implemented in accordance with the document 'Lighting Scheme' dated 28.05.2024 by Kosnic (Report Ref TC.PR589 Relux Scheme v4). This scheme shall be implemented in accordance with the Institute of Lighting Professionals "Guidance Note 01/21: Guidance notes for the reduction of obtrusive light" and other industry accepted standards. The scheme shall be retained in accordance with the approved details. There shall be no other lighting of the external areas of the site.

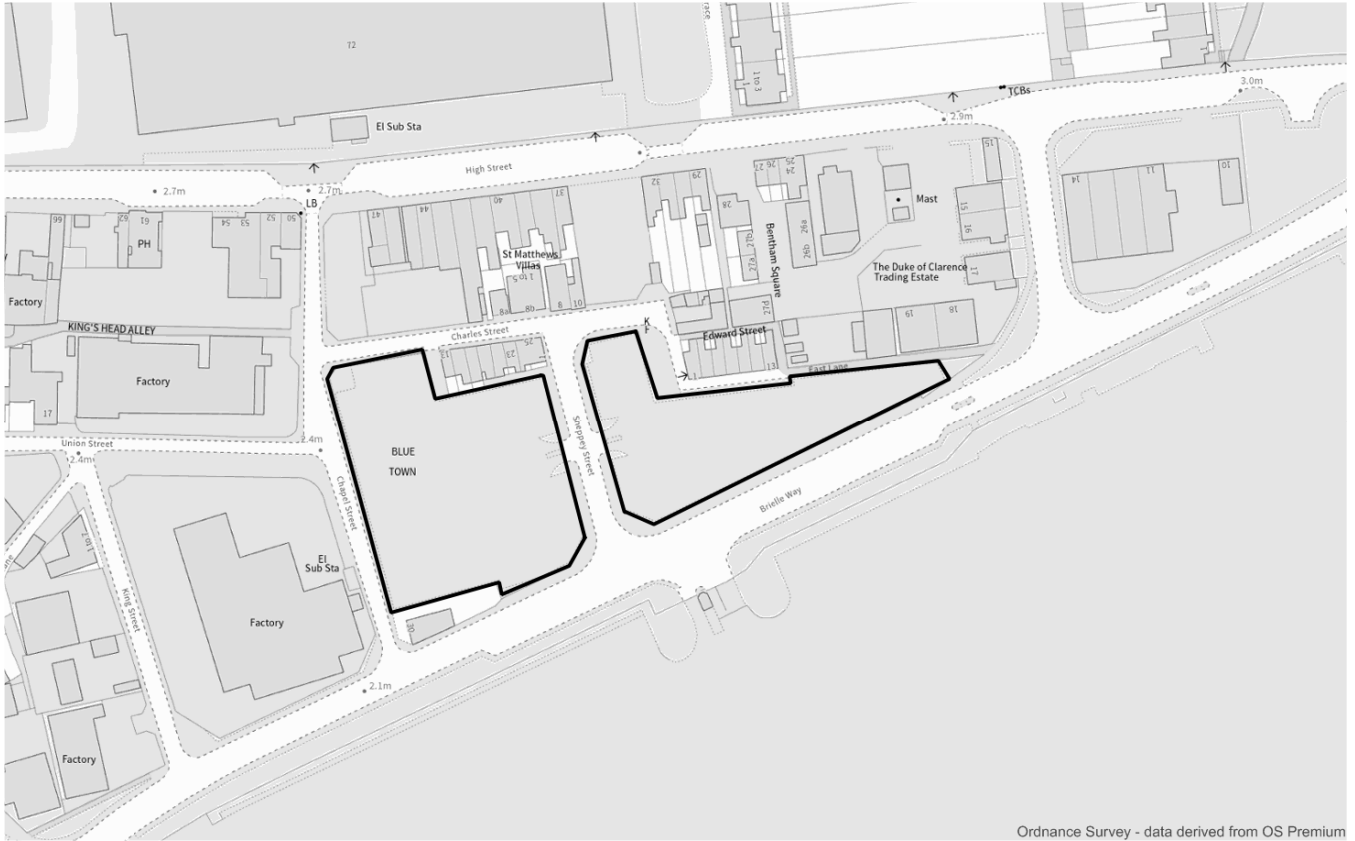
Reason: In the interests of the amenity of the area.

- (5) The business use of the site hereby permitted shall only be open to customers between the hours of 08:00 to 18:00 on weekdays 08:00 to 13:00 on Saturdays, and not at any time on Sundays or Public Holidays.

Reason: In the interests of the amenities of the area.

- (6) No vehicle repair shall be undertaken at the site.

Reason: In the interests of the amenities of the area.



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2.3 REFERENCE NO 24/502130/FULL		
PROPOSAL		
Proposed enhancement of the existing Sheppey leisure complex and healthy living centre; including erection of a two-storey side extension, creation of a new main side entrance to the leisure centre, facade/elevation improvements, minor internal reconfiguration, new cafe area, and external landscaping works to the surrounding public realm, including a new outdoor adventure golf facility, and creation of a new footpath between Sheppey train station and the leisure complex site.		
SITE LOCATION		
Sheppey Leisure Complex, Broadway Sheerness Kent ME12 1HH		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions as set out in the report, with further delegation to the Head of Planning / Head of Legal Services (as appropriate) to negotiate the precise wording of conditions, including adding or amending such conditions as may be consequently necessary and appropriate.		
APPLICATION TYPE - Full Planning Permission (Major Development)		
REASON FOR REFERRAL TO COMMITTEE		
The applicant is Swale Borough Council and the proposed development is located on Council owned land.		
Case Officer – Ben Oates		
WARD Sheerness	PARISH/TOWN COUNCIL Sheerness Town Council	APPLICANT Swale Borough Council AGENT 3BM Planning
DATE REGISTERED 10 June 2024	TARGET DATE 06 September 2024	
BACKGROUND PAPERS AND INFORMATION:		
Documents referenced in report are as follows: -		
All drawings submitted (Uploaded 29 May, 03 June 2024, 20 November 2024)		
All representations received		
All landscape layout plans (Uploaded 29 May 2024)		
Heritage statement (Uploaded 29 May 2024)		
Desk Based Archaeological Assessment (Uploaded 29 May 2024)		
Ecological Impact Assessment (Uploaded 29 May 2024)		
Biodiversity Net Gain Metric (Uploaded 20 November 2024)		
Arboricultural Method Statement (Uploaded 29 May 2024)		
Renewable Energy Statement (Uploaded 29 May 2024)		
Drainage Strategy (Uploaded 20 November 2024)		
Flood Risk Assessment (Uploaded 25 September 2024)		
Flood Risk Sequential Test (Uploaded 29 May 2024)		
Transport Statement (Uploaded 20 November 2024)		

Lighting Strategy (Uploaded 03 June 2024)
Air Quality Assessment (Uploaded 29 May 2024)
Contaminated Land Assessment (Uploaded 29 May 2024)
Cover letter by 3BM Planning (uploaded 25 September 2024)

The full suite of documents submitted pursuant to the above application are available via the link below: -

<https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=SDUCOJTYHVL00>

1. SITE LOCATION AND DESCRIPTION

- 1.1. The application site is located on the north-west coast of the Isle of Sheppey. The site is located within the Sheerness Town Centre, but is not within the primary or secondary shopping frontages, which are located further to the south.
- 1.2. The application site comprises the existing leisure complex with integrated Healthy Living Centre alongside green space and external facilities including play park, paddling pool and skate park. The GEA of the existing complex is approximately 2,943m² and includes a 4-court sports hall, a gym and spin studio, changing facilities, GP facility and community use space operated by Sheppey Matters, which is a health and well-being charity based on site. The red line boundary of the site extends through the park to its entrance opposite the Sheerness-on-Sea Railway Station. The site boundary also includes the existing Leisure Centre car park. The total area of the site is approximately 21,250sqm (2.1Ha).
- 1.3. The Mile Town Conservation Area adjoins part of the site to the south. Two Grade II listed buildings are also located nearby the development, being Beach House, which is on Beach Street by the junction with Clarence Row, and Sheerness War Memorial, which is to the west of the park entrances opposite Sheerness-on-Sea railway station. The site is also within Flood Zone 3 along with the majority of Sheerness, and adjoins the flood defence wall along the seafront to the north.

2. PLANNING HISTORY

- 2.1. There are a number of historic planning applications at this site, however those relevant to the current application are provided below:

Ref no.: SW/82/0514 granted for Sports complex and associated car parking - Decision Date: 21.08.1989

Ref no.: SW/01/0568 granted for Erection of side extension and alterations to existing Sports Centre to form a Healthy Living Centre - Decision Date: 19.07.2001

Ref no.: SW/11/1417 granted for Lawful Development Certificate for the installation of 207 solar panels on roof (proposed) - Decision Date: 14.11.2011

Ref no.: SW/13/0865 granted for Installation of edge protection to the full perimeter of the roof of the leisure centre to enable maintenance works to be carried out safely. The proposed edge protection system is a galvanised steel Easyguard permanent freestanding handrail system 1100mm high - Decision Date: 03.09.2013

3. PROPOSED DEVELOPMENT

- 3.1. Planning permission is sought for the proposed enhancement of the existing Sheppey Leisure Complex and healthy living centre, including the erection of a two-storey side extension, creation of a new main side entrance to the leisure centre, facade/elevation improvements, minor internal reconfiguration, new cafe area, and external landscaping works to the surrounding public realm, including a new outdoor adventure golf facility, and creation of a new footpath between Sheppey train station and the leisure complex site. An adventure golf course is proposed to the east of the site.
- 3.2. The application has been submitted by 3BM Planning on behalf of Swale Borough Council. The proposed development is one part of the £20million Sheerness Revival project, following the Council's successful bid from the Government's Levelling Up Fund.
- 3.3. The proposed 2-storey extension would replace the western most part of the existing 2-storey building, which would be demolished as part of the proposed works. The proposed extension would match the width of the existing building and would be circa 20.1m in length at its maximum, however this would only extend approximately 4.6m further than the existing part of the building proposed to be demolished. The proposed extension would be 9.3m in height and consist of a yellow brick base to complement the existing building with grey rainscreen cladding above.
- 3.4. The proposed extension accommodates replacement gym and fitness studio space, along with a café to serve as an ancillary function of the leisure complex. It would also include a new single storey entrance to provide direct access from the park.
- 3.5. The proposed refurbishments to the complex include internal works to relocate the existing GP facility from the 1st floor to the ground floor, which will allow for step free access and increased floor area. The proposed internal rearrangement of the complex will also consolidate the community use space, which would continue to be operated by Sheppey Matters and would be mostly contained within the eastern side of the building. The proposed internal arrangements to the Leisure Centre provide an improved sports hall, soft play area, assisted exercise area, café and back-of-house facilities at the ground floor, and two new fitness studios, gym space and changing facilities at the 1st floor.
- 3.6. The proposed public realm improvements extend from the leisure complex to the park entrance opposite Sheerness-on-Sea Station. The park entrance is proposed to be widened and a raised garden bed would be removed to improve movement routes, with replacement paving provided and repairs to boundary walls also proposed. A new pedestrian path is proposed to connect Beach Street to the park entrance including

resurfacing of part of the existing bitumen access, new signage provided, and dropped kerbs to facilitate access across Beach Street. A new 3m wide path would then connect to the new leisure complex entrance. An existing path adjoining to the west of the leisure centre would also be resurfaced to connect to another pedestrian crossing point to connect to Beach Street car parking area. Soft landscaping proposals include 14 new trees, new species rich planting and replacement of hedgerows. The existing outdoor activities areas would be retained and refurbished as necessary, including new chainlink fencing to the tennis courts. An area of the existing tennis courts to the immediate south of the leisure centre complex is to be repurposed as a multi-use games area, with 3m high weldmesh fencing installed and the existing hardsurface retained.

- 3.7. A new adventure golf course is proposed to be installed in an existing grassed area in the eastern part of the site, which includes an 18-hole adventure golf course containing landscaping features, a water feature and obstacles inspired by local landmarks and history. Details of most of the obstacles that would be installed have been provided, with features such as a boat (with masts circa 5m in height) and lighthouses (circa 3m in height). The course would also include connecting pathways, 1.8m high perimeter fencing and low level lighting bollards.

4. CONSULTATION

- 4.1. Consultation comprising letters sent to neighbouring occupiers; notices displayed at the application site and the application being advertised in the local newspaper have been carried out. Full details of representations are available online.
- 4.2. Two letters of representation were received in relation to the consultation. Concerns/ comments were raised in relation to the following matters: -

Comment	Report reference
Concern that the colourful pedestrian crossing will be confusing for guide dogs and road markings should be a standard white block crossing for safety.	Colourful pedestrian crossings are not included within these proposals.
Issues with parking associated with the swimming pool could be worsened to the detriment of the neighbouring flats.	Parking and transport matters are discussed in section 7.7 of this report.
Concerns regarding antisocial behaviour that currently occurs around the site of the proposed golf area.	Secure by design matters are discussed in section 7.14 of this report.

- 4.3. Sheerness Town Council submitted a representation to offer their support to the application.
- 4.4. Minster Parish Council made comments neither objecting to or supporting the Planning Application but made the following comments: -

Comment	Report reference / clarification
Improvements will bring benefits to the area, but wished to remain neutral on the proposals.	Duly noted.
Request further details on the Adventure Golf course.	Indicative details of the adventure golf course have been provided since these comments were received and has been reconsulted on. No further comments were received. A summary of the golf course can be seen in paragraph 3.7.
Request clarification if free outdoor sport will be offered.	This is an operational matter for the end user and not a relevant planning consideration in this application.
Request clarification if car park refunding arrangements will be retained.	This is an operational matter for the end user and not a relevant planning consideration in this application.
Confirmation on the site allocation of the phase 2 swimming pool.	The application does not involve changes to the nearby swimming pool site.
Confirmation of an outdoor MUGA space.	The proposal retains outdoor activity areas as indicated in the proposed Landscape layout plan.
Request clarification of the tennis court.	The proposal retains the existing tennis court and provides a new fence surrounding it.

5. REPRESENTATIONS

5.1. **SBC Heritage:** - No objections.

A Heritage Statement supports the application, noting the site's historical use for leisure since the 19th century. While the site is within the setting of the Sheerness Mile Town Conservation Area and near listed buildings such as Sheerness Beach House and the Sheerness War Memorial, the proposed enhancements are considered acceptable. The extension improves upon existing facades and includes landscape buffering, ensuring minimal impact on the conservation area and listed buildings.

Regarding the adventure golf course, the site's historic leisure and recreational use, separation distances and nature of the development proposed would not meaningfully affect the setting or significance of designated heritage assets within the vicinity of the site.

Overall, the development would enhance the setting of heritage assets and no objections are raised.

5.2 SBC Urban Design: - No objections.

The proposed refurbishment and extension of the leisure centre are not objectionable in principle, as the existing building lacks architectural or historic significance. The new design would improve upon the current structure, offering more open and active elevations that enhance visual interest and natural surveillance, particularly towards the park. Internally, the layout is well-considered, with compatible uses and good connectivity. Externally, the enhancements to the surrounding public spaces, including new recreational facilities and improved connectivity, would create a more welcoming experience. Overall, the proposals would provide upgraded community facilities and better integration with the public realm.

5.3 KCC Archaeology: - No objection subject to a condition.

The submitted desk-based assessment deposits associated with the former marshland and also Pleistocene deposits are deeply buried and are unlikely to be affected by the development proposals. The 'made ground' is likely to include deposits associated with land reclamation from post medieval times. While the proposals for remodelling will have limited ground impacts there may be some potential for features associated with the historic use of the recreational ground that may be of local interest. It is therefore recommended that provision is made for an archaeological watching brief targeted at ground excavations to be secured by condition.

5.4 Mid Kent Environmental Health: -

Advised that with regard to emissions associated with plant equipment and construction works that no objection is raised subject to securing suitable mitigation measures by conditions, and that no concerns were raised regarding land contamination or air quality. However, further information was initially requested in regard to the hours of operation and external lighting for the MUGA and adventure golf area to prevent overspill beyond the boundary of the site and not cause nuisance to nearby residential premises.

The applicant clarified that the opening hours for the MUGA hours of operation will remain as existing, which the Environmental Health officer confirmed did not require further restrictions.

The applicant clarified that the opening hours of the adventure golf area would be 10am to 4pm (Nov - March) and 8pm (Apr - Oct). The Environmental Health officer advised that this is acceptable subject to a condition to control the hours of use of the proposed adventure golf area.

5.5 KCC Ecology: -

Initially requested additional information including:

- Further necessary surveys reported within an Ecological Impact Assessment;
- A review of biodiversity net gain calculations; and
- Confirmation that a mandatory 10% biodiversity net gain applies to this development.

The results of the further surveys recommended in the preliminary ecological appraisal, any necessary mitigation/compensation measures and a conclusion as to whether the development will achieve a net gain for biodiversity were requested to be included within the Ecological Impact Assessment.

The applicant subsequently provided further information, which was reviewed by KCC Ecology and confirmed to address most points with the exception of further clarification required in regard to the BNG metric. A further revised BNG metric was subsequently provided, which was confirmed by KCC Ecology to resolve the previous concerns raised.

Following this, the adventure golf course was re-added to the application and the BNG was updated accordingly, which indicates the lost area of mown grass in the location of the proposed adventure golf course. KCC Ecology have confirmed that the approach is acceptable subject to conditions securing a Construction Management Plan for biodiversity and a habitat and management monitoring plan.

5.6 SBC Trees: - No objection subject to conditions.

No in principle objections to the above proposal, subject to the Arboricultural Method Statement and tree protection measures being secured by conditions.

Recommend that the proposed landscaping be secured by way of a condition.

5.7 SBC Climate Change/Renewable Energy: - No objection subject to conditions.

Notes that the applicant intends to build to BREEAM very good and recommend that this is secured by condition.

5.8 KCC Flood and Water Management -

Initially noted that the Environment Agency would need to advise on the risks associated with tidal flooding and that the drainage network provider would need to advise on the proposed discharge to combined sewers. They also requested additional information in relation to surface water drainage / flooding including confirmation that the 1 in 30 year return period with the upper end allowance for peak rainfall intensity is used in the modelling scenarios.

The applicant subsequently provided the requested information, which was reviewed by the SUDS team who confirmed the proposal is now acceptable subject to conditions to secure a detailed drainage scheme and verification report.

Following further information provided in relation to the adventure golf course, the SUDS team confirmed that the surface water drainage strategy remains functionally identical, with the provided hydraulic calculations demonstrating that the drainage scheme will be capable of accommodating up to and including the 1 in 100+40% year scenario. However, the 'upper end' allowance details would also be required for the 30 (3.3%) year storm scenarios as well.

Subject to securing a detailed surface water drainage strategy (including information on the 30 year storm scenario) and a verification report, Kent County Council as Lead Local Flood Authority would see no further reason to object to this application.

5.9 Lower Medway Integrated Drainage Board: - No objection subject to conditions.

Drainage - no objection

Pollution – Sustainable Drainage Systems (SuDS) should equal or exceed the pollution indices of the surface water. Although the risk of pollution is considered low it would be desirable to provide some treatment to runoff prior to discharge.

The applicant responded to this advising that the overall risk of pollution is low and therefore suggest that to add an additional level of control can install catchpits upstream. It should be noted that the discharge is to a combined sewer and not to a water course.

The Drainage Board recommend that planning conditions are imposed to ensure development is in line with the Flood Risk Assessment and Drainage Strategy including that prior to development, a full scheme for surface water disposal based on SuDS principles is submitted to and approved by the local planning authority and the scheme is verified on site once constructed by a competent engineer.

Also advise that conditions be included securing a maintenance schedule for the SuDS features and to secure flood reliance measures that are designed and implemented into the development, including the finished floor level relating to tidal flood risk.

5.10 KCC Highways: - No objections

Advise that the pedestrian environment improvements are welcomed. These works will need to be carried out under a section 278 agreement, details of which will need to be provided and agreed by KCC and a detailed plan will need to be secured.

5.11 Environment Agency: - No objections subject to conditions.

Advise that they have no objections subject to conditions imposed in regard to flood risk, contamination and piling.

Request a condition for Finished floor levels set no lower than 3.58 metres above Ordnance Datum (AOD). The applicant advises that the existing buildings finished floor levels are 3.58m AOD which the proposal will also achieve.

5.12 Natural England: - No comments.

Natural England is not able to provide specific advice on this application and therefore has no comment to make on its details.

5.13 Southern Water: - No objections subject to conditions.

Southern Water offer standard advice for the developer to consult with them regarding the protection of public apparatus.

Request conditions to be included to secure details of network reinforcement and details of foul and surface water drainage.

5.14 Sports England: - Offers support for this this application.

Sport England offers its support for the proposed improvements to the facilities, however note that the site is not considered to be playing field and therefore Sport England does not consider this proposal would require statutory consultation.

5.15 **Kent Police:** - No objections – standard advice provided.

Applicant should consult Designing out Crime Officers to address crime prevention through environmental design and incorporate Secured By Design (SBD) measures as appropriate.

The applicant has set out the SBD measures incorporated into the scheme, and Kent Police have since confirmed that they have met with the applicant to discuss the measures and have no further comments to make.

6. DEVELOPMENT PLAN POLICIES

6.1. **Bearing Fruits 2031: The Swale Borough Council Local Plan 2017**

- ST 1 Delivering sustainable development
- ST 3 The Swale settlement strategy
- ST 6 The Isle of Sheppey area strategy
- CP 2 Promoting sustainable transport
- CP 4 Requiring good design
- CP 5 Health and wellbeing
- CP 7 Conserving and enhancing the natural environment - providing for green infrastructure
- CP 8 Conserving and enhancing the historic environment
- DM 1 Maintaining and enhancing the vitality and viability of town centres and other areas
- DM 6 Managing transport demand and impact
- DM 7 Vehicle parking
- DM 14 General development criteria
- DM 16 Alterations and extensions
- DM 17 Open space, sports and recreation provision
- DM 19 Sustainable design and construction
- DM 21 Water, flooding & drainage
- DM 28 Biodiversity and geological conservation
- DM 29 Woodlands, trees and hedges
- DM 32 Listed buildings
- DM 33 Conservation areas

6.2. **Supplementary Planning Guidance/Documents**

- Supplementary Planning Document - Swale Parking Standards
- Supplementary Planning Guidance - Listed Buildings and Conservation Areas

7. ASSESSMENT

This application is reported to the Committee because the applicant is Swale Borough Council and the proposed development is located on Council owned land.

7.1. The main considerations involved in the assessment of the application are:

- The Principle of Development
- Character and Appearance
- Heritage
- Archaeology
- Living conditions
- Transport and Highways
- Environmental Health
- Ecology
- Trees
- Flood Risk, Drainage and Surface Water
- Sustainability / Energy

7.2. **Principle**

7.2.1. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.

7.2.2. The National Planning Policy Framework (NPPF) provides the national policy context for the proposed development and is a material consideration in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.

7.2.3. Policy ST1 of the Local Plan 2017 seeks to deliver sustainable development in Swale, including through development that accords with the settlement strategy as set out in policy ST3. It also promotes healthy communities through protecting, managing, providing and enhancing open spaces and facilities for sport and recreation. Policy ST3 of the Local Plan supports the principle of development within the built-up area boundary of established towns and villages within the borough.

7.2.4. Local Plan policy ST6 provides the area strategy for the Isle of Sheppey and seeks to consolidate and enhance the retail and service role of Sheerness Town Centre, especially where increasing its comparison provision or providing other services that enhance the centre. Policy DM1 supports this by seeking to maintain and enhance the vitality and viability of town centres and other areas.

7.2.5. Policy CP5 seeks to promote, protect and improve the health of Swale's population by safeguarding or providing as appropriate, open space, sport and recreation in

accordance with Policy DM 17, and bringing forward accessible new community services and facilities, including health facilities.

- 7.2.6. The application site is an existing leisure complex and healthy living centre within the Sheppey Town Centre. The proposed refurbishment and extension of the Sheppey Leisure Complex would safeguard and enhance the existing facilities that serve the local community, thereby promoting healthy and active lifestyles for the local population. The proposed improvements to the existing open space area, outdoor recreation facilities, and provision of the adventure golf course would also safeguard and enhance these facilities.
- 7.2.7. It is noted that the proposals include a café, however this is considered to be ancillary to the main leisure centre use and therefore does not constitute a change of use at the site. Nonetheless, given the location of the site within the town centre it is considered to be an appropriate addition, in principle, within the proposals.
- 7.2.8. The principle of the proposal is therefore supported in accordance with Local Plan policies ST1, ST3, ST6, CP5, DM1 and DM17 and the NPPF.

7.3. Character and appearance

- 7.3.1. The National Planning Policy Framework attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement, including policy DM16, which supports alterations and extensions to existing buildings provided they are of an appropriate design and quality which responds positively to the style and character of the building being extended.
- 7.3.2. The existing leisure centre building is not of any architectural or historic importance and therefore its proposed refurbishment and extension is not objectionable in principle. Although the existing building presents an active frontage to the car park, the other elevations are blank and defensive in design and provide little interaction with the surrounding open space and outdoor recreational facilities. Additionally, there is scope to enhance the existing outdoor recreational facilities to benefit the appearance of the park and there is scope for the legibility of the site towards the town centre to be enhanced.
- 7.3.3. At two storeys the proposed extension would be responsive to the current leisure building and sit comfortably relative to the wider area. Its design would integrate well with the existing building, successfully uniting the buildings varied existing architectural approaches into an appropriate design response. The elevations are more open and active than the existing and would provide visual interest through the interplay of window openings and materials. The northern and western elevations would provide active frontages towards the park, including the proposed new entrance point, maximising passive surveillance, and capitalising on the opportunities provided by the park setting.

- 7.3.4. Internally, the existing building arrangement provides a rational configuration with a range of compatible uses and good connectivity through the existing building. The proposed ancillary café would help animate the edges of the building and promotes integration with surrounding spaces. There is no objection to the scale, architectural treatment and internal arrangement proposed.
- 7.3.5. Externally, a series of enhancements are proposed to the public space surrounding the building for a range of activities including tennis and multi-use sport area and adventure golf course. The proposed improvements include public realm enhancements and enhanced connectivity to the train station. Generally, the provision of activities and new public realm enhancements would create a more inviting and welcoming experience for users and visitors with enhanced connectivity and legibility. The mix of uses and their arrangement across the site appears appropriate and would complement the character and function of the area. Chainlink fencing of 2.75m height is proposed around the tennis courts, with 3m weldmesh fencing proposed around the MUGA and 1.8m green meshing proposed around the golf course. The fencing proposed would be reflective of the existing situation on site, but to ensure the proposals are visually acceptable, a condition securing details of the boundary treatments to be installed is recommended.
- 7.3.6. The proposed adventure golf course will bring activity and visual interest to this part of the site. Details of the adventure golf course have been provided, reflecting local landmarks and the area's history. Features across the adventure golf course would vary in height and obstacles such as boats, lighthouses and a plane (ranging in height from 5m down to 2m) are shown on plans, demonstrating how the golf course area would look. The proposals demonstrate how the development would be accommodated within the streetscene and how it would be viewed within the context of existing leisure facilities. Subject to a condition securing final detail of the golf course facilities, the proposals would have an acceptable impact on the visual amenity of the area.
- 7.3.7. Overall, the proposals would result in updated and improved facilities for the community and enhance their relationship with the public realm. The proposals are an appropriate design response that would have a positive effect on the character and appearance of the area in accordance with policies CP4 and DM14 of the Local Plan and the NPPF.

7.4. Heritage

- 7.4.1. Any planning application for development which will affect a listed building or its setting must be assessed in accordance with the requirements of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires a local planning authority to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest which it possesses.

- 7.4.2. A similar duty exists where the proposed development will be within a conservation area where section 72 of the same Act requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
- 7.4.3. The National Planning Policy Framework states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.
- 7.4.4. The application site does not include any heritage assets and is not located within a conservation area. The site does, however, lie within the setting of parts of the Sheerness Mile Town Conservation Area and listed buildings including the Grade II listed Sheerness Beach House which is sited closest to the site on Beach Street and Sheerness War Memorial to the west.
- 7.4.5. Mile Town Conservation Area comprises the historic core of the C19 Mile Town and includes the commercial areas of the town and areas of 19th century housing, including those on Beach Street. The significance of the conservation area is derived from its unaltered 19th century street pattern, function as the historic commercial centre of Sheerness with surviving examples of traditional shop frontages and variety of architectural styles, traditional materials, and detailing. The application site, which forms part of its setting, has been in leisure and recreational use since at least the 19th Century.
- 7.4.6. The proposal which includes an extension to the leisure centre and a series of enhancements to the public space surrounding the building are acceptable. The proposed extension replaces poor quality blank facades with an appropriately scaled and designed extension that would result in an uplift in design quality at this location. The extension is subject to significant separation to the conservation area boundary and is softened in views by extensive tree and landscape planting. The range of leisure uses proposed reflect the longstanding use of the site for leisure and recreational purposes and public realm enhancements would create a more inviting and welcoming experience for users and visitors. Overall, the proposal would enhance the setting of the conservation area.
- 7.4.7. Two listed buildings are located relatively close to the site – the Grade II listed Sheerness Beach House and the Sheerness War Memorial. Sheerness Beach House is a two-storey brick built dwelling dating from the early 19th century. Its significance lies in being a good example of formal 19th century architecture and detailing, which reflects the gradual evolution of development within Sheerness from modestly proportioned workers cottages to more aspirational development typologies. The primary setting to the house is the existing housing along Beach Street and Clarence Row and it contributes positively to this streetscape although there is a visual

relationship with the undeveloped open space around the leisure centre. Notwithstanding this, the public realm improvements, appropriate uses, and significant uplift to the architectural quality of the western end of Sheppey Leisure Centre, would enhance the setting of this listed building.

- 7.4.8. The Sheerness War Memorial lies to the west of the area near to where public realm improvements are proposed. The street layout and visibility towards the monument is an important aspect of its setting, reflecting its role as a civic memorial, designed to be appreciated from public spaces. However, the minor nature of the development proposed in this area would not materially affect the setting or significance of this structure.
- 7.4.9. In summary, the proposed development would preserve and enhance the setting of two designated heritage assets, including the Mile Town Conservation Area and the Grade II listed Sheerness Beach House, and would preserve the setting of the Grade II listed memorial. The proposal is therefore acceptable in accordance with Local Plan policies CP8, DM32 and DM33 and the NPPF.
- 7.4.10. In considering the impact of this proposal upon designated heritage assets, officers have had regard to the Council's obligations pursuant to the Planning (Listed Building and Conservation Areas Act) 1990.

7.5. Archaeology

- 7.5.1. The NPPF sets out that where development has the potential to affect heritage assets with archaeological interest, LPAs should require developers to submit an appropriate desk-based assessment, and where necessary, a field evaluation.
- 7.5.2. Policy DM34 of the Local Plan sets out that planning applications on sites where there is or is the potential for an archaeological heritage asset, there is a preference to preserve important archaeological features in situ, however, where this is not justified suitable mitigation must be achieved.
- 7.5.3. The submission includes a desk-based assessment that sets out the archaeological and geoarchaeological potential of the area of the site. It notes that beneath considerable made ground deposits there are deposits associated with the former marshland and also Pleistocene deposits. KCC Archaeology note that these are deeply buried and therefore are unlikely to be affected by the development proposals.
- 7.5.4. The 'made ground' is likely to include deposits associated with land reclamation from post medieval times. The site has a long history of recreational use as can be seen on the historic maps extending to the late 19th century. The site was also in land previously held by the War department and photographs of the Great War show that there were machine gun emplacements on the northern fringe near the former swimming pool area.

- 7.5.5. While the proposals for remodelling will have limited ground impacts there may be some potential for features associated with the historic use of the recreational ground that may be of local interest. KCC Archaeology therefore recommend that provision is made for an archaeological watching brief targeted at ground excavations. Subject to the inclusion of the recommended condition the proposal is acceptable in accordance with policy DM34 and the NPPF.

7.6. Living conditions

- 7.6.1. The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.6.2. The proposed extension would be located approximately 37m from the nearest residential property to the south. As such, due to its separation, the proposal would have no adverse impact on daylight, sunlight, outlook or privacy of the neighbouring occupiers and it would not create an undue sense of enclosure. Likewise, the proposed landscaping, public realm improvements and adventure golf course would not have any unacceptable impact on neighbouring living conditions.
- 7.6.3. The proposed extensions are designed to ensure that noise is contained within the building and the improvements to the park and outdoor activities areas (including the MUGA) would effectively replace existing features. Therefore, these parts of the proposal would not result in unacceptable noise emissions when compared with the existing situation. In order to ensure that any plant equipment installed in connection with the leisure centre extension does not have an adverse effect on residential amenity, a condition requiring that any plant be tested, and any necessary noise mitigation installed, is also recommended.
- 7.6.4. The applicant has advised that the proposed adventure golf area would operate between 10am – 4pm during winter months (Nov – March) and 10am - 8pm during summer months (Apr – Oct). Environmental Health advised that this is acceptable. Subject to a condition securing the hours of operation of the adventure golf facility, this part of the proposals would not give rise to any unacceptable impact on neighbouring living conditions.
- 7.6.5. The submitted lighting strategy plans indicate that the MUGA will be served by column lighting on a timeclock, with the adventure golf area to comprise bollard lighting. In order to ensure that lighting to serve the MUGA and adventure golf does not have an adverse impact on neighbouring living conditions, two conditions are recommended, with one securing details of the lighting to be installed in those locations (including the light spread), and the other securing details of the hours of operation for that lighting.
- 7.6.6. To safeguard the living conditions of neighbouring occupiers during construction, conditions are suggested below to limit construction hours and to require the submission of a construction management plan, to limit noise and dust during the construction of the development.

- 7.6.7. Taking the above into account, the scheme is considered acceptable and would not have any unacceptable impact on the living conditions of neighbours. As such the proposal accords with Policy DM 14 of the Local Plan.

7.7. Transport and Highways

- 7.7.1. The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. The NPPF sets out that development proposals should identify and pursue opportunities to promote walking, cycling and public transport use. The NPPF also states that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.”

- 7.7.2. Local Plan policy promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm. SBC Vehicle Parking Standards Supplementary Planning Document (SPD) which is pursuant to Policy DM 7 of Local Plan was adopted by the Council in June 2020 and is a material consideration in the determination of planning applications.
- 7.7.3. The applicant has provided a Transport Statement as part of the submission which provides details of highways and transport matters relating to the proposed development. It notes that the proposal would not result in any significant impact upon the surrounding highways network. The leisure complex is located in a town centre location and has good pedestrian links to surrounding key destinations in Sheerness including bus stops and the train station. Car parking onsite is available via the two car parks nearby including Beachfields Car Park and Beach Street Car Park, which provide a total of 160 parking spaces.
- 7.7.4. The existing parking areas available to future users are of a sufficient size such that they could accommodate the additional parking needs generated by the development, whilst the site is located in the town centre where alternative sustainable transport options exist. Furthermore, there are existing parking restrictions in the surrounding town centre which will mitigate impacts on existing residents and businesses. KCC Highways have not raised any concerns with regards to parking.
- 7.7.5. The proposed public realm enhancements and pedestrian links from Beach Street car park and park entrance by Bridge Road to the leisure centre are confirmed by KCC Highways to be welcome improvements. The proposed dropped kerbs will need to be carried out under a section 278 agreement. Given the proposed works are within the red line boundary the details can be secured and agreed with KCC Highways by condition.

- 7.7.6. The Climate Change officer also notes that the development will enhance the opportunities for active travel through the enhancement of walking and cycling routes. This promotes the use of sustainable transport in accordance with policy CP2 of the Local Plan.
- 7.7.7. On the basis of the above, the development is considered to comply with Policy DM 7 of the Local Plan and is acceptable from a highways perspective.

7.8. Air Quality

- 7.8.1. The importance of improving air quality in areas of the borough has become increasingly apparent over recent years. Legislation has been introduced at a European level and a national level in the past decade with the aim of protecting human health and the environment by avoiding, reducing or preventing harmful concentrations of air pollution.
- 7.8.2. The NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing new/existing development from contributing to or being put at unacceptable risk from, or being adversely affected by, inter alia, unacceptable levels of air pollution. It also requires the effects of air pollution and the potential sensitivity of the area to its effects to be taken into account in planning decisions.
- 7.8.3. The Planning Practice Guidance on Air Quality states that
- “whether or not air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to generate air quality impact in an area where air quality is known to be poor. They could also arise where the development is likely to adversely impact upon the implementation of air quality strategies and action plans and/or, in particular, lead to a breach of EU legislation.....”.*
- 7.8.4. The Local Plan at Policy DM6 sets out that development proposals will integrate air quality management and environmental quality into the location and design of, and access to development and in so doing, demonstrate that proposals do not worsen air quality to an unacceptable degree.
- 7.8.5. The applicant has undertaken an Air Quality Assessment in support of this proposal, which sets out that the impact of the development in terms of air quality is 'not significant' due to the limited number of vehicle movements anticipated as a result of the development. The Environmental Health officer has reviewed the Assessment and agrees with its conclusions. Therefore, no mitigation measures are required and as such the proposals are considered to be in accordance with Local Plan policy DM6 and the NPPF.

7.9. Contamination

- 7.9.1. The NPPF states that local planning authorities should ensure that the site is suitable for its new use taking into account ground conditions and any risks arising from contamination.
- 7.9.2. The applicant has undertaken a Contaminated Land Assessment in support of this proposal. The Environmental Health officer has reviewed the Assessment and from a human health perspective raises no objections. The Environment Agency has also reviewed the application and in order to ensure that the proposals minimise the risk to controlled waters, raise no objections subject to conditions for contamination investigation, remediation and verification, which have been included accordingly.
- 7.9.3. Subject to the above conditions, the application is acceptable with regard to contamination, in accordance with policy ST1 (11h) of the Local Plan and the NPPF.

7.10. Ecology

Habitat Protection

- 7.10.1. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by Policies CP7 and DM28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.
- 7.10.2. The application site is located on a site that is already in use as a leisure centre adjacent to the coastline. The sea wall screens the ground level of the site from the adjacent coast. KCC Ecology advise that public access along this section of coast and its proximity to extensive areas of housing associated with Sheerness means this area of coastline is likely to experience high levels of recreational disturbance.
- 7.10.3. The coast directly adjacent to the site is designated as Medway Estuary Marine Conservation Zone (MCZ), which is designated for its smelt, the nationally scarce tentacled lagoon-worm, estuarine rock habitats, intertidal mixed sediments, intertidal sand and muddy sand, low energy intertidal rock, peat and clay exposures, subtidal coarse sediment, subtidal mud, and subtidal sand. None of these features are likely to be affected by the proposed development if a suitable Construction Environmental Management Plan is in place for the duration of construction (including site clearance).
- 7.10.4. The site is within 600m of the Outer Thames Estuary Special Protection Area designated for wintering red-throated diver and foraging common and little tern during the breeding season. The Local Planning Authority must consider the impact the proposal will have on this and other nearby designated sites in accordance with the

Conservation of Habitats and Species Regulations 2017 (as amended) and the National Planning Policy Framework (NPPF) 2024. Due to the nature and location of the site, KCC Ecology advise that the proposals are unlikely to have an adverse effect on the integrity of this, or any other nearby internationally important designated sites, provided that a suitable Construction Environmental Management Plan (CEMP) is in place for the duration of construction (including site clearance).

- 7.10.5. Given the above, a condition is recommended securing a CEMP to be submitted for approval prior to the commencement of works on site. Subject to this the proposal accords with Local Plan policies CP7 and DM28, as well as the NPPF.

Roosting Bats

- 7.10.6. Bats are fully protected through the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017 (as amended).
- 7.10.7. Three trees were identified as having potential bat roosting suitability (T01, T02 and T03 as classified in the preliminary ecological appraisal report). KCC Ecology initially requested clarification that the three trees identified were not subject to any proposed tree works identified within the Arboricultural Impact Assessment. The applicant clarified that the trees to be removed are small ornamental cherry trees within a planting bed which contain no potential roost features. The applicant also clarified that no bat roost features on any of the retained trees would be damaged or destroyed by the proposed works. KCC Ecology confirmed that this matter has been resolved.
- 7.10.8. The leisure centre was identified as having low suitability for roosting bats and a bat emergence survey was submitted during the application, which concluded the likely absence of a roost within the building. KCC Ecology have confirmed that roosting bats are unlikely to be affected by proposals. The proposals would therefore avoid an adverse impact on protected species and their habitats, in accordance with policy DM28 of the Local Plan and the NPPF.

Biodiversity Net Gain

- 7.10.9. The NPPF and Local Plan Policy DM28 seek to ensure that development proposals will conserve, enhance and extend biodiversity, provide for net gains in biodiversity where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated. Under the Environment Act 2021, all planning applications for major development submitted on or after 12th February 2024 in England will have to deliver at least a 10% biodiversity net gain.
- 7.10.10. The applicant has submitted a Biodiversity Net Gain (BNG) Assessment and statutory biodiversity net gain calculation tool, which were revised following concerns raised by KCC Ecology. The BNG was further revised when the adventure golf course was re-added to the proposal, which indicates the lost area of mown grass in the location of the proposed adventure golf course. The final revised details indicate that the proposal would result in an overall BNG of 10.79% on site, including a net gain in hedgerow

units of 10.36%. The proposed development would therefore provide an acceptable BNG on site.

- 7.10.11. KCC Ecology have provided advice on the BNG details throughout the application and confirm that the approach is acceptable subject to conditions to secure the onsite BNG. They further advised that it will also be dependent on the successful implementation of detailed planting plans and a suitable habitat management and monitoring plan being secured through planning conditions should planning permission be granted. These conditions are included accordingly and on this basis the application accords with Local Plan policy DM28 and the NPPF.

7.11. Trees

- 7.11.1. The NPPF recognises the contribution of trees to the intrinsic character and beauty of the countryside. The Local Plan sets out a general policy protection for woodlands, trees and hedgerow through Policy DM29.

- 7.11.2. An Arboricultural Impact Assessment and Method Statement was submitted with the application and sets out the construction control measures to protect retained trees and tree groups (including hedgerows) within, and adjacent to, the site in accordance with British Standard (BS) 5837:2012. The only trees identified to be removed are a small group of ornamental trees and vegetation within an existing planter by the park entrance close to the retained sculpture which are identified as Category C. These are being removed in order to open up the space further and their removal will have limited impact on the natural and visual amenity of the area.

- 7.11.3. The Council's Tree Officer has reviewed the application and advised that there are no objections subject to conditions securing the Arboricultural Method Statement and tree protection measures. The Tree Officer also advises that the proposed landscaping as shown on the drawings by Terraforma Landscape Architects is considered acceptable and should also be secured by way of a condition. The recommended conditions are included accordingly.

- 7.11.4. Subject to the inclusion of the recommended conditions the proposal is acceptable in accordance with Local Plan policy DM29 and the NPPF.

7.12. Flood Risk, Drainage and Surface Water

- 7.12.1. The NPPF states that local planning authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. It then goes on to set out that development should only be allowed in areas at risk of flooding where supported by a site-specific FRA and the sequential and exception tests are passed, as applicable. These national policies are reflected in policy DM 21 of the Local Plan.

- 7.12.2. The site lies in Flood Zone 3a due to the high risk of tidal and fluvial flooding; however it benefits from existing flood defences, which protect the site in events up to and including a 1 in 200 year storm event. A Flood Risk Assessment (FRA) was submitted

with the application, which concludes that there is no residual risk of flooding to the site in the event of a breach in the flood defences. The development is considered to be 'less vulnerable' therefore is permitted in Flood Zone 3a, and it is proposed that the Finished Floor Levels of the buildings would be retained as existing, which are above the indicative water levels for the defended scenarios including climate change. The FRA also concludes that the site is deemed to be at 'low' or 'very low' risk of flooding from surface water, groundwater, sewers, and artificial sources.

- 7.12.3. The Environment Agency (EA) have reviewed the application and advised that they have no objections to the proposal based on the submitted FRA and subject to the recommended conditions to reduce the risks associated with flooding.

Sequential Test

- 7.12.4. Both national and local policy sets out that new development will only be permitted if it can be demonstrated that it satisfies the requirements of the sequential test, and where required, the exception test. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
- 7.12.5. A Sequential Test was submitted with the application, which assessed potential alternative sites within the Borough. The Sequential Test concludes that no reasonably available sites for leisure use were identified in the Local Plan or Employment Land Review (ELR) Update. Two of the three sites from the SHLAA were identified to be suitable for mixed-use development, however these sites are not located on the Isle of Sheppey. Furthermore, both sites currently comprise greenfield land, and development would be subject to other constraints including an assessment of impacts on protected landscapes.
- 7.12.6. On the other hand, the Sheppey Leisure site is currently in operation as a leisure facility on brownfield land and the proposed development is seeking consent for the expansion of an existing facility.
- 7.12.7. In accordance with the NPPG on flood risk, a pragmatic approach to the assessment of alternative sites should be undertaken, proportionate to the scale of the proposed development. NPPG paragraph 027 states that in large areas of Flood Zones 2 and 3, where development is necessary to sustain the existing community, sites outside these zones are unlikely to offer reasonable alternatives.
- 7.12.8. Officers acknowledge that there are no alternative locations within Sheerness outside the Flood Zone 3 extents that would be considered reasonable alternatives for the proposed development. The approach to the sequential test taken by the applicant is considered to be reasonable when taking into account the nature of the development and the scale of the proposed extensions and refurbishments. It is reasonable to take the view that the location of the development outside of the Flood Zone is impractical as the extension and enhanced leisure offer on site (including the adventure golf

course site) is proposed to improve the existing health and leisure centre facilities available in this location. The proposals are therefore considered to pass the sequential test, in line with the NPPF.

- 7.12.9. Turning to the exception test, the necessity for the test depends on the potential vulnerability of the site and of the development proposed. Annex 3 of the NPPF (Flood Risk Vulnerability Classification) sets out a hierarchical system for allocating development depending on its level of vulnerability to flooding. This classifies the proposed development as 'less vulnerable'. In accordance with Table 2 of the PPG, this vulnerability classification is deemed appropriate within Flood Zone 3a. The exception test is therefore not applicable.
- 7.12.10. On this basis, the location of the site is considered to be acceptable in flood risk terms in accordance with the NPPF and Local Plan policy DM21.

Sustainable Drainage Systems (SUDS)

- 7.12.11. Both national and local polices seek development proposals to incorporate sustainable drainage systems (SUDS). A Drainage Strategy was submitted with the application and further details submitted during the course of the application to clarify matters raised by the KCC SUDS team.
- 7.12.12. Under the proposals, the surface water runoff will be conveyed to an existing combined sewer system located within Beach Street via an existing drainage run within the site. Runoff will be restricted to 2l/s via the use of a flow control. In order to restrict the runoff to greenfield rates, a geocellular tank is proposed to be provided with over 30m³ of attenuation. Exceedance flows are proposed to be channelled towards the soft landscaped areas to the west of the Leisure complex. Regarding foul water drainage, the existing combined drainage system will be separated into separate foul and surface water networks. The foul wastewater will utilise a gravity connection to the public sewer within Royal Road.
- 7.12.13. KCC SUDS have reviewed the strategy submitted and comment that the drainage modelling provided demonstrates that the drainage scheme is feasible. They note that the 1 in 30 year storm event has not been adjusted in line with the EA's latest climate change allowances. In order to secure this information, it is recommended that this detail is secured as part of a surface water drainage condition to be imposed on the decision.
- 7.12.14. Subject to the imposition of conditions securing details of a surface water drainage strategy and verification, the proposal is acceptable and accords with Local Plan policy DM21 and the NPPF.

7.13. Sustainability / Energy

- 7.13.1. Policy DM 19 of the Local Plan sets out a range of sustainable design and construction measures that development proposals should, where appropriate, incorporate them into their scheme. Along with the relevant parts of the NPPF, there is a clear requirement within local policy for proposals to demonstrate how this will be achieved.
- 7.13.2. The submitted Renewable Energy Statement sets out the applicant's intent to achieve BREEAM rating 'Very Good', which meets the requirement of policy DM19. The Council's Climate Change officer recommends that this should be secured by condition, which is included accordingly. The Energy Statement also sets out the passive design strategies and use of low and zero-carbon generating technologies, such as an air source heat pump (ASHP) system and photovoltaic (PV) panels to reduce the carbon footprint of the proposed development.

7.14. Other matters

- 7.14.1. The applicant met with Designing out Crime Officers to address crime prevention through environmental design and incorporate Secured By Design (SBD) measures as appropriate. The applicant has set out the SBD measures incorporated into the scheme, and Kent Police have since confirmed that they have no further concerns to raise.

7.15. Conclusion

- 7.15.1. The proposed refurbishment and extension of the Sheppey Leisure Complex would safeguard and enhance the existing facilities that serve the local community, thereby promoting healthy and active lifestyles for the local population. The proposed improvements to the existing open space area, outdoor recreation facilities and adventure golf course would also safeguard and enhance these facilities.
- 7.15.2. The proposed design would integrate well with the existing building, successfully uniting the buildings varied existing architectural approaches into an appropriate design response and sit comfortably relative to the wider area. The proposed public realm enhancements would create a more inviting and welcoming experience for users and visitors with enhanced connectivity and legibility with the train station. The proposed development would also preserve and enhance the setting of two designated heritage assets, including the Mile Town Conservation Area and the grade II listed Sheerness Beach House and have no material impact on the listed war memorial.
- 7.15.3. Overall, the proposals are considered acceptable and compliant with the Local Plan and NPPF for the reasons set out in the report. In view of the above, it is recommended for that the application for full planning permission be approved.

CONDITIONS

Time limit

- (1) The development hereby permitted shall begin not later than three years from the date of this decision.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

Drawings

- (2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

BRP-GT3-XX-00-D-A-05-0001_P02 - Ground Floor Demolition Plans

BRP-GT3-XX-00-D-A-08-0001_P02 - Ground Floor Proposed GA Plan

BRP-GT3-XX-00-D-A-08-0004_P01 - Ground Floor Existing GA Plan

BRP-GT3-XX-01-D-A-05-0002_P02 - First Floor Demolition Plans

BRP-GT3-XX-01-D-A-08-0002_P02 - First Floor Proposed GA Plan

BRP-GT3-XX-01-D-A-08-0005_P01 - First Floor Existing GA Plan

BRP-GT3-XX-RF-D-A-05-0003_P02 - Roof Demolition Plans

BRP-GT3-XX-RF-D-A-08-0003_P01 - Roof Proposed GA Plan

BRP-GT3-XX-RF-D-A-08-0006_P01 - Roof Existing GA Plan

BRP-GT3-XX-XX-D-A-08-0900_P02 - Site Location Plan

BRP-GT3-XX-XX-D-A-08-0903_P02 - Existing Aerial View

BRP-GT3-XX-ZZ-D-A-05-0010_P01 - Demolition Elevations

BRP-GT3-XX-ZZ-D-A-08-0010_P01 - Existing Elevations

BRP-GT3-XX-ZZ-D-A-08-0011_P02 - Proposed Elevations

BRP-GT3-XX-ZZ-D-A-08-0012_P01 - Proposed Extension

BRP-GT3-XX-ZZ-D-A-08-0101_P02 - General Building Sections

BRP-GT3-XX-ZZ-D-A-08-0901_P03 - Existing Block Plan

BRP-GT3-XX-ZZ-D-A-08-0902_P06 - Proposed Block Plan

BRP-TFC-XX-XX-D-L-1001-P07

BRP-TFC-XX-XX-D-L-1002-P08

BRP-TFC-XX-XX-D-L-1003 - skate park and leisure centre-P03

BRP-TFC-XX-XX-D-L-1004 - main entrance and sculpture-P02

BRP-ENG-XX-XX-D-C-3001 Rev P04 - Proposed Drainage Plan

BRP-OAL-XX-EX-SK-E-0407 Rev P01 - Lighting Strategy

LLD3137-ARB-DWG-020

LLD3137-ARB-DWG-021

LLD3137-ARB-DWG-022

LLD3137-ARB-SCH-001-02

1006.01a - Adventure Golf - Existing Site Survey no aerial

1006.01 - Adventure Golf - Existing Site Survey

1006.02 - Adventure Golf - Layout Plan

1006.02a - Adventure Golf - Grading Plan

1006.03 - Adventure Golf - Cross Sections Plan

1006.04s - Adventure Golf - Landscape Plan

1006.05 - Adventure Golf - Typical Details Plan

1006.06 - Adventure Golf -Application Boundary Plan

1006.12 - Adventure Golf - Elevations

1006.13 - Adventure Golf - Elevation Examples

1006.33 – Adventure Golf - Materials Plan

Reason: In the interests of ensuring that the development is carried out in a co-ordinated manner.

Construction Management Plan (Pre-Commencement)

- (3) No development shall take place, including any works of demolition, until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The approved CMP shall be implemented and adhered to throughout the entire construction period of that phase.

The CMP shall provide details of:

- (a) Routing of construction and delivery vehicles
- (b) Parking and turning areas for construction and delivery vehicles and site personnel
- (c) Timing of deliveries
- (d) Provision of wheel washing facilities
- (e) Temporary traffic management / signage

- (f) Any requirements for temporary construction access
- (g) loading and unloading of plant and materials
- (h) storage of plant and materials used in constructing the development
- (i) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- (j) measures to control the emission of dust and dirt during construction
- (k) a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: To ensure that the impact of construction works on the strategic and local road network are managed, and in the interests of the amenities of the area and highways safety and convenience.

Contamination Investigation & Remediation

- (4) No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:
1. A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
 2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To reduce risk to controlled waters. Controlled waters are particularly sensitive in this location because the site lies on a secondary aquifer. Due to the vulnerability of the aquifer every precaution should be taken to prevent any pollution of groundwater.

Verification Report

- (5) No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a “long-term monitoring and maintenance plan”) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason: To reduce risk to controlled waters. Controlled waters are particularly sensitive in this location because the site lies on a secondary aquifer. Due to the vulnerability of the aquifer every precaution should be taken to prevent any pollution of groundwater. This is in line with paragraph 180 of the NPPF.

Unexpected Contamination

- (6) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason: To reduce risk to controlled waters. This is in line with paragraph 180 of the NPPF.

Piling

- (7) Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants. Piling and investigation boreholes using penetrative methods can result in risks to potable supplies from, for example, pollution / turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways. This is in line with paragraph 180 of the NPPF.

Archaeology

- (8) Prior to the commencement of the development hereby approved, the applicant, or their agents or successors in title, shall secure implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed, and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification, which has been submitted to and approved in writing by the Local Planning Authority. For the purposes of clarity the condition will be in two parts. Part (i) relating to the submission of a WSI and part (ii) relating to the submission of a satisfactory report relating to the outcome of the watching brief.

Reason: To ensure that features of archaeological interest are properly examined and recorded in accordance with the Swale Borough Local Plan and the NPPF.

Flood Risk Assessment

- (9) The development shall be carried out in accordance with the submitted flood risk assessment (project number: 24-086; produced by: Odyssey on behalf of Willmott Dixon Construction; dated: May 2024) and the following mitigation measures it details:
- Finished floor levels shall be set no lower than 3.58 metres above Ordnance Datum (AOD).

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants. This is in line with paragraph 170 of the NPPF)

Surface Water Drainage

- (10) Prior to the occupation of the development hereby approved, details of surface water drainage shall be submitted and approved by the Local Planning Authority in consultation with Southern Water (or successor utility provider).

The details shall demonstrate either:

- a) that the discharge surface water flow is no greater than existing levels if proven to be connected and it is ensured that there is no overall increase in flows into the surface water system. The details shall include a topographical site survey and/or a CCTV survey with the connection application showing the existing connection points, pipe sizes, gradients and calculations confirming the proposed surface water flow will be no greater than the existing contributing flows.

Or

- b) If (a) is not capable of being met, the details shall demonstrate that any sewerage network reinforcement required to adequately drain the development has been completed by Southern Water prior to occupation of the approved development.

The development shall be carried out and retained as such in accordance with the approved details.

Reason: To ensure that adequate waste water network capacity is available to adequately drain the development.

Sustainable Drainage Strategy

- (11) Prior to construction above damp-proof course of the development hereby approved, a detailed sustainable surface water drainage scheme shall be submitted to and approved by the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment dated May 2024 and Drainage Strategy dated 18th November 2024 and shall demonstrate that the surface water generated by the relevant phase of the development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100-year storm, and in particular including the climate change adjusted 30-year storm) can be accommodated and disposed of within the curtilage of the site without increase to flood risk on or off-site. The sustainable surface water drainage scheme shall also demonstrate (with reference to published guidance):
- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
 - appropriate operational, maintenance and access requirements for each drainage feature or SuDS component in that phase are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme for that phase shall be implemented in accordance with the approved details.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding.

SUDS Verification

- (12) Prior to occupation of the development hereby permitted, a Verification Report, pertaining to the surface water drainage system, and prepared by a suitably competent person, shall be submitted to and approved by the Local Planning Authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets, and control structures;

landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property, and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of the National Planning Policy Framework.

Noise

- (13) Prior to first operation of the plant and equipment associated with the development hereby approved a post completion noise survey must be undertaken at the maximum operating speed by a competent qualified acoustic consultant. The results of the survey report shall be submitted to and approved in writing by the Local Planning Authority.

The post completion testing shall assess performance against the noise levels as set in the Report Noise Survey and Assessment Report undertaken by Pace Consult dated 18th December 2023 (Report Ref: PC-23-0224-RP1).

If the post completion survey reveals that where the local authority's noise criteria has not been met further noise mitigation shall be implemented.

The final noise mitigation scheme shall be operated and maintained thereafter.

Reason: To safeguard the amenities of nearby residential properties.

Lighting Details

- (14) No external lighting shall be installed until a detailed scheme of lighting has been submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. This scheme shall take note of and refer to the Institute of ILP Guidance Note 01/21 The Reduction of Obtrusive Light (and any subsequent revisions) and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The scheme of lighting shall be installed, maintained and operated in accordance with the approved scheme unless the Local Planning Authority gives its written consent to any variation.

Reason: To safeguard the living conditions of nearby residential properties.

External Lighting Control Of Timing

- (15) The external lighting shall not be used until details of a timer control system to be fitted to the external lighting system and its hours of operation are submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the living conditions of nearby residential properties.

Highways Works

- (16) Prior to the first use of the development hereby approved, details of a delivery plan for the highways improvement works, including detailed plans for the two pedestrian crossing points on Beach Street, as indicatively shown on drawings BRP-TFC-XX-XX-D-L-1001 Rev P07 and BRP-TFC-XX-XX-D-L-1003 Rev P03, shall be submitted to and approved in writing by, the Local Planning Authority. The proposals shall be completed in accordance with a Section 278 agreement with the Highway Authority prior to first use of the development hereby approved, unless an alternative timetable for their provision has been submitted to and approved in writing by the Local Planning Authority, in which case the crossing points shall be provided in accordance with that timetable.

Reason: In the interests of highways safety and enhancement of the pedestrian environment within the vicinity of the site.

Construction Ecological Management Plan:

- (17) No development (including site/vegetation clearance) shall commence before a construction environmental management plan (CEMP (biodiversity) for the protection of the adjacent designated sites, and any protected and/or priority species on-site has been submitted to and approved in writing by the local planning authority. The CEMP (biodiversity) shall be based on the recommendations in section 4 of the Preliminary Ecological Appraisal by Lizard Landscape Design and Ecology, dated 14th May 2024 (reference: LLD3137-ECO-REP-001-01-PEA) and include the following:

- Risk assessment of potentially damaging construction activities to biodiversity;
- Identification of areas of vegetation to be retained and protected shown on appropriate scale plans, including reference to arboricultural method statement as required;
- Details of the practical measures (both physical measures and sensitive / anti-pollution working practises) to avoid or reduce impacts on the retained habitats;
- The location and timing of sensitive works to avoid harm to biodiversity features;
- The times during construction when specialist ecologists need to be present on site to oversee works;
- Details of any necessary protected species licences; and
- Responsible persons and lines of communication.

The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details.

Reason: To ensure that any adverse ecological impacts of development activities are avoided or suitably mitigated.

Biodiversity Net Gain

- (18) The Biodiversity Gain Plan shall be prepared in accordance with the Biodiversity Net Gain Assessment Ref: LLD3137-ECO-REP-002-04-BNG Rev 04 (dated: 18/11/2024).

Reason: To ensure the development delivers a biodiversity net gain on site.

Habitat Management and Monitoring Plan

- (19) Prior to the commencement of the development (except for demolition works) a Habitat Management and Monitoring Plan (the HMMP) to be prepared in accordance with the approved Biodiversity Gain Plan shall be submitted to, and approved in writing by, the local planning authority. The HMMP shall include:

- (a) a non-technical summary;
- (b) the roles and responsibilities of the people or organisation(s) delivering the HMMP;
- (c) the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
- (d) the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and
- (e) the monitoring methodology and frequency in respect of the created or enhanced habitat.

The habitat creation and enhancement works set out in the approved HMMP shall be completed in the first available planting season following the commencement of development.

Reason: To ensure the development delivers a biodiversity net gain on site.

Habitat Management and Monitoring Plan Monitoring

- (20) Monitoring reports shall be submitted to the Local Planning Authority in writing in accordance with the methodology and frequency specified in the approved HMMP.

Reason: To ensure the development delivers a biodiversity net gain on site.

Arboricultural Impact Assessment & Tree Protection Compliance

- (21) The development hereby approved shall be carried out in strict accordance with the construction control measures to protect retained trees and tree groups (including hedgerows) within, and adjacent to, the site in accordance with British Standard (BS) 5837:2012 'Trees in Relation to Design, Demolition and Construction – Recommendations' as set out within the approved Arboricultural Method Statement (Ref: LLD3137-ARB-REP-001, dated: 07/05/2024) and Tree Protection Plans: (ref: LLD3137-ARB-DWG-020 Rev 01, LLD3137-ARB-DWG-021 Rev 01, LLD3137-ARB-DWG-022 Rev 01).

Reason: To safeguard the existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

Landscaping Details

- (22) Prior to first use of the development hereby approved, a detailed scheme and timetable for the soft landscaping and boundary treatments to be installed shall be submitted to and approved in writing by the Local Planning Authority. The planting and boundary treatments shall be completed on the site in accordance with the approved details and timetable.

The soft landscaping scheme shall include proposed trees, shrubs, and other features, planting schedules of plants (which shall include indigenous species and of a type that will encourage wildlife and biodiversity), noting species, plant sizes and numbers where appropriate, measures to prevent tree vandalism, and measures to protect the advance planting from construction on the remainder of the site for the duration of such works. Details of the boundary treatments shall include the material, appearance and height of the proposed fencing.

Reason: In the interests of visual amenity and to integrate the development into the surrounding landscape/context.

Landscaping retention

- (23) Upon completion of the soft landscaping works, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within the next planting season, unless otherwise agreed.

Reason: To ensure the retention and maintenance of strategic landscaping, in the interests of visual amenity.

Materials

- (24) No development beyond the construction of foundations in connection with the extension hereby approved shall take place until details of the external finishing materials to be used on the building extensions hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

BREEAM

- (25) Prior to the first use of the extensions to the Leisure Centre Building hereby permitted, details shall be submitted to and approved in writing by the Local Planning Authority demonstrating that the works to the Leisure Centre building have achieved a BREEAM 'Very Good' rating.

Reason: In the interest of promoting energy efficiency and sustainable development.

Hours of use of adventure golf area

- (26) The adventure golf area shall not be used other than between the following times on any given day:
- November – March: 10am to 6pm
 - April – October: 10am – 8pm

Reason: To safeguard the amenities of nearby residential properties.

Adventure golf course obstacles

- (27) Notwithstanding the details submitted and prior to any works above ground level being carried out in the area identified for the adventure golf course, final detailed plans of all elements of the golf course scheme setting out the dimensions and materials of the proposed above ground installations, shall be submitted to and approved in writing by the Local Planning Authority. Subsequently, the development shall only be undertaken in accordance with the approved details.

Reason: In the interests of certainty as to what is permitted and to safeguard the visual amenity of the area.

Informatives

Southern Water Informative

Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to, and approved in writing by the Local Planning Authority in consultation with Southern Water.

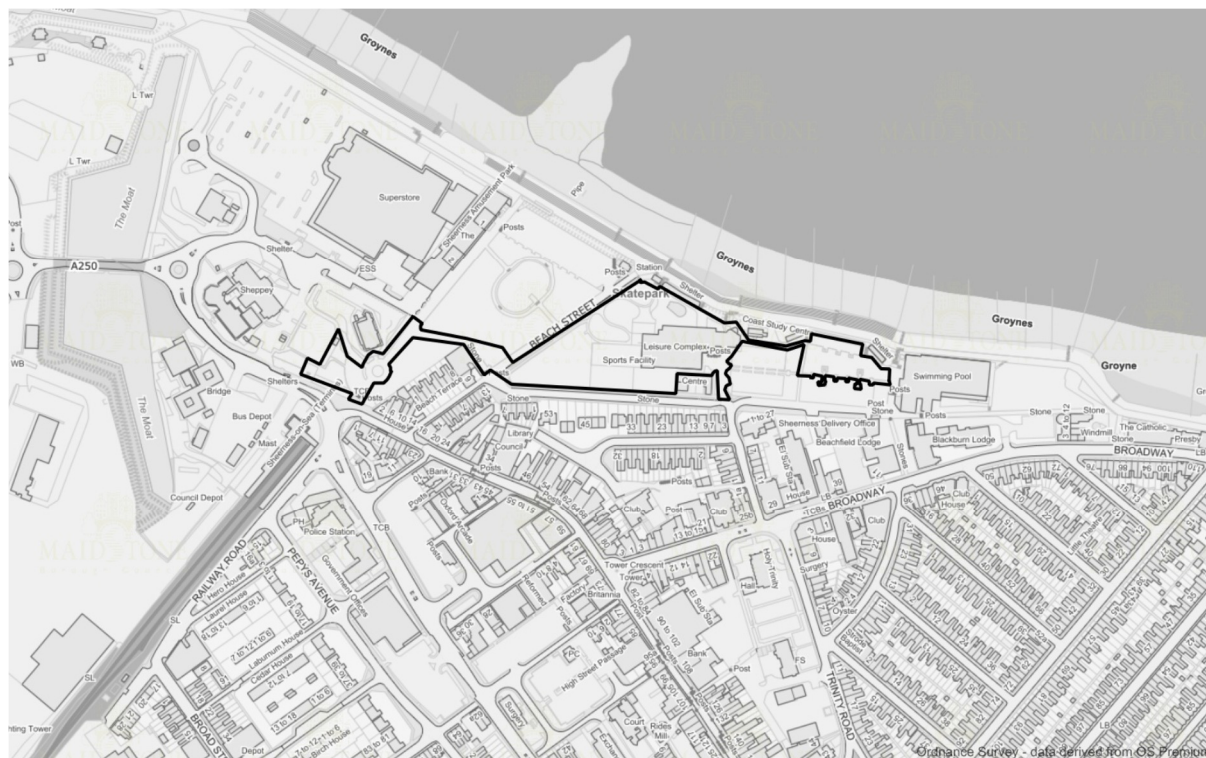
Biodiversity Gain Plan

Your attention is drawn to the legal requirement for a Biodiversity Gain Plan to be submitted and approved by the County Planning Authority prior to the commencement of the development. For guidance on the content of the process and the content of the Plan please see the link: [Submit a biodiversity gain plan - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/submit-a-biodiversity-gain-plan).

Please note that where the Biodiversity Gain Plan requires delivery of significant onsite biodiversity enhancements, registered off-site biodiversity gains or the use of statutory credits it may be necessary for the Plan to be secured by a section 106 legal agreement (or a conservation covenant) to secure the planning obligations. Where appropriate, measures to secure the planning obligations should be addressed as part of the information submitted with the Biodiversity Gain Plan.

Please note that on receipt of a valid Biodiversity Gain Plan the planning authority has 8 weeks to approve or refuse the biodiversity gain plan. This timeframe needs to be taken into account when planning for implementation of the development hereby permitted. This timeframe may vary, particularly where a legal agreement is required. Once the plan is approved, the development can commence.

The submission of a Biodiversity Gain Plan attracts a planning fee for the written confirmation of compliance with the biodiversity gain condition.



PLANNING COMMITTEE – 16th January 2025

PART 5

Report of the Head of Planning

PART 5

Decisions by County Council and Secretary of State, reported for information

- **Item 5.1 – 4 Oast Cottages, Breach Lane, Upchurch, Kent ME9 7PH**

PINS Decision: APPEAL DISMISSED

Committee or Officer Decision : DELEGATED REFUSAL

Observations

Planning permission was sought for a dwelling and garage. The main issues were identified to be whether the location of the development is acceptable and the impact on the character and appearance of the area.

The position of the site relative to facilities, services and regular public transport services and the location outside of the built-up areas of the Borough led the Inspector to identify that the site is contrary to the development plan. Having had regard to several other factors that were raised by the appellant, the Inspector still concluded that the location of the development was unacceptable in terms of the conflict with development plan policy and the accessibility of services and facilities.

Whilst being of acceptable design, it was found that the proposed development would erode the contribution the appeal site makes to the rural character and appearance of the area and the very presence of development would have a negative impact on the intrinsic character and beauty of the countryside.

The Inspector had regard to other considerations including the supply of housing , the need for self-build housing, the environmental credentials of the proposal, the potential biodiversity enhancements and other social and economic benefits. However, it was deemed that the identified harm and the conflict with the development plan meant that the appeal should be dismissed.

- **Item 5.2 – 8 Cross Lane, Faversham, Kent ME13 8PN**

PINS Decision: APPEAL DISMISSED

Committee or Officer Decision : DELEGATED REFUSAL

Observations

Planning permission was sought for the change of use of a residential flat to enable the formation of two offices as an extension to an existing office premises. The main issue was the effect on housing supply arising from the loss of the existing flat. It was identified that the proposal would be contrary to Policy DM1 and DM2 of the Local Plan which seek, amongst other aspects, to prevent the loss of residential accommodation. The Inspector had regard to the appellant's case which addressed matters including the

adequate supply of housing (at that time) the need to support local businesses, the need for office accommodation, the potential for existing occupiers to relocate if the appeal was unsuccessful and the personal circumstances of the user of the office. Whilst the economic benefits of the development were recognised, these were not deemed to outweigh the harm arising from the conflict with the development plan caused by the loss of housing.

- **Item 5.3 – 8 Harty Ferry Cottages, Harty Ferry Road, Oare, Kent ME13 0QD**

PINS Decision: APPEAL DISMISSED

Committee or Officer Decision : DELEGATED REFUSAL

Observations

Planning permission was sought for the change of use of land to residential garden, the erection of a cabin as an outbuilding and the siting of a caravan. The main issue was identified to be the impact on the character and appearance of the area and the Area of High Landscape Value it is within.

It was identified that The proposal would significantly increase the domestic garden area of the host dwelling and would provide additional outbuildings and structures within the vicinity, albeit some distance from the dwelling itself. The provision of these, alongside other features which would be commonly found within a domestic garden, would provide a distinctly formal and domesticated appearance which would be at odds with the key characteristics of the Luddenham and Conyer Marshes. It was found that there was insufficient certainty that the proposed landscaping would be effective or acceptable in the context of the surrounding area and it was set out that the overall size and scale of the area proposed to be changed would be at odds with the existing modest gardens at the rear of the terrace and appear as an incongruous feature within the landscape.

The proposal was therefore unacceptable and contrary to the development plan and the appeal was dismissed accordingly.

- **Item 5.4 – Bullfinch Cottage, Lewson Street Road, Norton, Kent ME9 9JQ**

PINS Decision: APPEAL DISMISSED

Committee or Officer Decision : DELEGATED REFUSAL

Observations

Planning permission was sought for a granny annexe and the main issues were identified to be the impact on the character and appearance of the area and whether the site was a suitable location for the development. Given the association with the host dwelling, the location of the annexe development was considered to be acceptable. However, the visual impact of the development was considered to be unacceptable as the development would detract from the characteristic spaciousness of the area and would appear incongruous. It was found that the development, particularly as a result of its scale and positioning, would appear prominently within the street. Therefore, the development was contrary to the development plan and, even having regard to other

considerations that were raised, the Inspector concluded that the appeal should be dismissed.

- **Item 5.5 – Callum Park, Basser Hill, Lower Halstow ME9 7TY**

PINS Decision: APPEAL ALLOWED

Committee or Officer Decision : DELEGATED REFUSAL

Observations

Outline planning permission was sought for the provision of two additional self-build dwellings at the edge of a previously approved development that has commenced. The main issues were whether the site was a suitable location for the proposal, the impact on an Area of High Landscape Value and the impact on Special Protection Areas.

The Inspector found that the site was not a suitable location for development in the context of the development plan, noting that the site was outside the defined built-up area of Lower Halstow and that it would be unlikely that residents would use sustainable modes of transport. It was found that the impact on the AHLV would be negligible and that the impact on the SPA was addressed by the provision of the conventional financial contribution. The Inspector also found that the proposal would not cause harm to nearby heritage assets or the living conditions of existing residents.

The Inspector weighed the identified harm arising from the conflict with the development plan against the benefits arising from the supply of housing, the meeting of a need for self-build housing, the economic and social benefits of development and the potential for delivering biodiversity enhancements. This balancing exercise led the Inspector to conclude that the appeal should be allowed and planning permission should be granted.

- **Item 5.6 – Land adjacent 113 Chaffes Lane, Upchurch, Sittingbourne ME9 7BB**

PINS Decision: APPEAL ALLOWED

Committee or Officer Decision : COMMITTEE REFUSAL

Observations

Planning permission was sought for 7 dwellings and the main issues were identified to be whether the site was a suitable location for the proposed development and whether the impact on the character and appearance of the area would be acceptable.

Although outside the built-up area of Upchurch, the site is adjacent to that settlement and it was found that The site is sufficiently close to the facilities within the village to enable them to be accessed by most people without needing to use a private motor vehicle. It was identified that Upchurch would not meet all needs of future residents but would meet many and would align with the Local Plan in terms of recognising that Upchurch would only be expected to meet some of its residents needs and not all needs. It was considered that opportunities to maximise the use of sustainable modes of transport will vary and that in this case the proposal could be found acceptable in that

respect. Moreover, by continuing the existing linear development, it was found that the proposal represented the prevailing pattern of development in the area and the layout and arrangement of the development was considered to be acceptable.

It was identified that the proposal is contrary to the development plan by virtue of the site being located outside the built-up area. However, this was considered to represent a limited conflict with the development plan and it was found that this would be outweighed by the benefits of the proposal in terms of housing supply, economic and social benefits and the potential for the development to be built-out quickly.

- **Item 5.7 – Littles Manor Oast, North Street, Sheldwich, Faversham ME13 0LP**

PINS Decision: APPEAL DISMISSED

Committee or Officer Decision : DELEGATED REFUSAL

Observations

Planning permission was sought for new build holiday-let accommodation. The main issue was whether the location of the site was suitable for such a development and, in this regard, the Inspector identified that the site was outside of the Borough's settlements and distant from facilities and public transport to an extent that future users of the premises would be dependent on cars. It was identified that a need for the development had not been demonstrated that would not already be met by other facilities and that the economic benefits of the development were modest. Whilst acceptable in other respects, the development was found to be contrary to the development plan and the appeal was dismissed accordingly.

- **Item 5.8 – Nether Toes, Sheppey Way, Bobbing, Sittingbourne, Kent ME9 8QP**

PINS Decision: APPEAL DISMISSED

Committee or Officer Decision : DELEGATED REFUSAL

Observations

The application sought permission for the conversion and re-instatement of an agricultural building and its use as a dwellinghouse. The main issues were whether the site was a suitable location for residential development, whether the conversion would be a suitable use of a heritage asset, whether the proposal would preserve or enhance heritage assets and the impact on Special Protection Areas.

Due to the location of the site relative to facilities and the inevitable dependence on cars, it was found that the location was not suitable for residential development. It was deemed that insufficient attempts had been made to find a use for the premises without resorting to residential use and it was identified that insufficient justification had been provided to support a case that the level of investment required to enable the conversion of the building meant that residential use represented the viable use.

The Inspector concluded that the reinstatement of the building represented a heritage benefit and would enable the enhancement of the setting of a non-designated heritage

asset. The proposal was, therefore acceptable in that respect. It was also noted that the Council could not demonstrate a 5 year housing land supply and that limited weight could be afforded to social and economic benefits arising from the proposal.

Having undertaken a balancing exercise, the Inspector concluded that the adverse impacts of the proposal would significantly and demonstrably outweigh the limited benefits. The impact on the Special Protection Areas was addressed by the applicant but, given the overall conclusion, the Inspector did not consider it necessary to address that matter further.

- **Item 5.9 – Scocles Farm, Scocles Road, Minster-on-Sea, Kent ME12 3RU**

PINS Decision: APPEAL DISMISSED

Committee or Officer Decision : DELEGATED REFUSAL

Observations

The appeal related to the refusal to approved details required to be agreed under the terms of conditions of planning permission 19/504831/FULL. The conditions required details of windows, doors and boundary treatments to be submitted and agreed.

The Inspector agreed with the Council that not all details were submitted to accord with the requirements of the condition that addressed windows and doors and that there was insufficient information to determine that the proposed details would not harm the character and appearance of the development and the area and not harm the setting of listed buildings.

Whilst the details submitted in relation to boundary treatments were acceptable, the Inspector identified that works on site had progressed beyond the trigger point when the details were required to have been submitted and agreed. It was therefore found that the condition could not be discharged.

- **Item 5.10 – Stonebridge Lodge, West Street, Faversham, Kent ME13 7RU**

PINS Decision: APPEAL DISMISSED

Committee or Officer Decision : DELEGATED REFUSAL

Observations

Planning permission and listed building consent were sought for works of adaptation and extension. Appeals were submitted in relation to both refused applications. The main issues were whether the proposals preserve listed buildings and their settings, whether they preserve or enhance the Faversham Conservation Area and whether they effect the significance of a non-designated heritage asset.

The Inspector concluded that the proposal would harm the special interest of the Grade II listed host building (Stonebridge Lodge) and fail to preserve its setting. Moreover, the Inspector reached the view that the proposal would fail to preserve the character and appearance of the Conservation Area. It was found that the proposal would preserve

the special interest of the adjacent Grade II listed buildings (Twymans Mill and The Forge) and could be made acceptable with respect to the non-designated heritage asset (Stonebridge Pond).

Public benefits from the proposal were considered including with respect to energy generation and efficiency, construction based employment, improved living conditions, an increase in the number of trees and the improvement to the condition of the listed building. However, these were not found to outweigh the identified harm and therefore the appeals were dismissed.

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- **Item 5.11 – The Happy Pants Animal Sanctuary, Land to the east of Hawes Wood, Iwade Road, Newington, Kent ME9 7HY**

PINS Decision: APPEAL DISMISSED

Committee or Officer Decision : COMMITTEE REFUSAL – appeal against an Enforcement Notice

Observations

The appeal was against the serving of an Enforcement Notice with respect to the material change of use of the land to a mixed use of an animal sanctuary and the stationing of caravans for human habitation.

In relation to the ground (B) appeal, it was found that the requirements of the enforcement notice could be modified and simplified. In relation to the ground (C) appeal, it was conceded during the appeal that a breach of planning control had occurred. In relation to the Ground (G) appeal, it was deemed that a 6 month compliance period was appropriate, in accordance with the requirements of the Enforcement Notice.

In relation to the ground (A) appeal and the deemed planning application, the main issues were whether the location is acceptable for the use of land, the effect on rural character and appearance (in visual terms, in terms of a loss of habitat and as a result of traffic on rural lanes) and the living conditions of neighbouring residents.

The Inspector found that limited harm is caused in relation to the impact on the rural character and appearance of the area, found that significant harm has been caused to existing site habitats and identified that the development had caused deterioration to ancient woodland. It was also found that harm was caused to the living conditions of as a result of noise disturbance. No harm was identified in relation to the impact on rural lanes.



Appeal Decision

Site visit made on 26 November 2024

by **R Gee BA (Hons) Dip TP PGCert UD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 December 2024

Appeal Ref: APP/V2255/W/24/3339820

4 Oast Cottages, Breach Lane, Upchurch, Kent ME9 7PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Stephen Greensted against the decision of Swale Borough Council.
 - The application Ref is 23/503389/FULL.
 - The development proposed is construction of single storey barn style dwelling with detached garage utilising existing access from Breach Lane.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) whether the appeal site is a suitable location for residential development having regard to development plan policy and the accessibility of services and facilities; and
 - ii) the effect of the development proposed on the character and appearance of the area.

Reasons

Location and accessibility

3. The appeal site comprises a relatively flat, undeveloped parcel of land. It is understood that the site has been used as a paddock for the grazing of horses. To the north is a dwelling, and various outbuildings, and to the south of the appeal site, on Breach Road, there is sporadic residential development. There is also commercial development opposite the site and equestrian-related uses nearby. Whilst proximate to nearby built form, the appeal site lies beyond any established built-up area boundary and is in a countryside location.
4. Bearing Fruits 2031: The Swale Borough Local Plan 2017 (the Local Plan) has defined its built-up area boundary and Policy ST3 of the Local Plan seeks to provide new homes in accordance with the settlement hierarchy for the Borough. Part 5 of Policy ST3 states "*At locations in the countryside, outside the built-up area boundaries as shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities*".

<https://www.gov.uk/planning-inspectorate>

Appeal Decision APP/V2255/W/24/3339820

5. The National Planning Policy Framework (the Framework) promotes sustainable development in rural areas, including by requiring housing to be located where it will enhance or maintain the vitality of rural communities. Furthermore, it acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
6. It is understood that the appeal site is approximately 1.3 miles from Newington, 1.1 miles from Lower Halstow and 1.5 miles from Upchurch. With the larger settlements of Rainham and Sittingbourne further afield. Policy ST3 of the Local Plan identifies Newington as a tier 4 local service centre and Upchurch and Lower Halstow as tier 5 villages, the lowest ranking of settlements. From the evidence before me access to the settlements and their services is limited.
7. Breach Lane is an unlit road with no pavement and is subject to the national speed limit. My attention has been drawn to the presence of bus stops nearby. However, bus services appear to be limited.
8. The appellant submits that Breach Lane is used by ramblers using the many footpaths in the area. The availability of home delivery services is noted, which may reduce the need for private motor vehicle trips. Nevertheless, whilst I note the health benefits and lower carbon emissions derived from sustainable travel, given the distances involved, the limitations of the immediate rural roads and limited public transport, the future occupants of the proposed dwelling would be unlikely to walk or cycle and would largely be reliant upon private vehicle use to meet their basic day-to-day needs. In these circumstances the proposed development would not provide the opportunity to maximise the use of sustainable transport facilities, even when accepting that the site is in a rural location.
9. By any mode of travel there is no evidence that local facilities are not already viable. Nor that one household would make a material contribution to maintaining them or enhance the wider viability of a local community in a meaningful way.
10. Whilst the proposed dwelling would be positioned between two residential properties, whether the proposal would represent infill is a question of planning judgement based on an assessment of the site and its surroundings. I am not convinced that the proposal constitutes infill development. The dwelling would be set back from the highway and would be separated from the cluster of dwellings to the south by a large undeveloped area of land. Whilst I do not disagree that infill generally refers to development between existing development, to my mind despite the site having built form either side the proposal would not result in the completion of a gap between an otherwise continuous and contiguous frontage.
11. The appellant refers to a number of appeal decisions stating that these provide support to the appropriate location of the site. It is acknowledged that great weight should be applied to a Decision granted by the Secretary of State or an Inspector, and the Planning Practice Guidance which refers to the importance of determining similar cases in a similar manner.
12. I am not party to the evidence before the Inspector, however, based on the limited information before me, I do not consider the case of land adjacent

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Kaine Farm House¹, to be directly comparable to the appeal scheme before me. Whilst the location may be close to the appeal site, further along Breach Lane, the description of development and context differ. In any event, I have determined this case on its own merits.

13. In having regard to the Court Judgements in *Braintree*² and *Bramshill*³, the proposed dwelling would not be physically separate or remote from a settlement, and therefore would not constitute an isolated home in the countryside.
14. For the reasons stated above, I find that the appeal site is not a suitable location for residential development having regard to development plan policy and the accessibility of services and facilities. Conflict arises with Policies ST1, ST3, CP2, DM6, DM14 and DM24 of Local Plan. Collectively, these policies seek to direct development to be located in places that enable sustainable journeys to be made to key services and facilities. It would also conflict with the Framework which seeks to promote sustainable development and protect the open countryside.

Character and appearance

15. Although there is loose knit development in the area, the wider area is predominantly rural. The site's open and undeveloped nature contributes positively to the rural character of the locality. The site is visually separated from nearby developments by vegetation along the site boundaries. The site does not appear as part of a built-up area, rather it is open and assimilates with, and forms part of, the wider rural landscape.
16. The construction of a dwelling on the site would encroach into a field, set back significantly from the highway. The frontage boundary hedge would do little to screen the dwelling in the surrounding landscape.
17. The garden to the proposed dwelling would be large. The domestication of the plot, including the proposed triple garage, would give rise to a suburban appearance, contrary to the character and appearance of the site and open countryside.
18. Dwellings within surrounding areas vary in scale and design. The proposed dwelling would be of a contemporary barn style that would be of a high-quality design. Whilst a suitable external finish and landscaping could be conditioned, the very presence of development would have a negative impact on the intrinsic character and beauty of the countryside.
19. Even if I were to consider the proposal as previously developed land, in addition to concluding that the site would not be in a suitable location for housing, the proposed development would erode the contribution the appeal site makes to the rural character and appearance of the area.
20. For these reasons, I conclude that the proposed development would harm the character and appearance of the area in conflict with Policies ST3 and DM14 of the Local Plan. The development would also conflict with the Framework which

¹ APP/V2255/W/17/3175061 - Demolition of seven farm buildings and the construction of six detached dwellings and garages

² Braintree District Council v SSCLG Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

³ City and Country Bramshill Ltd v SSHCLG [2021] EWCA Civ 320

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requires development to contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Other Matters

21. I note that an appropriate level of parking would be provided to serve the future occupiers of the development. I am satisfied that the proposed dwelling would cause no harm in respect of the living conditions of existing occupiers of neighbouring properties. Nor would there be harm in respect of flood risk and the appropriate provision of drainage. However, these are neutral matters that neither weigh for or against the proposal.
22. I appreciate that not everyone wishes to reside within urban areas, and many accept the disadvantages of accessibility are outweighed by the advantages of a rural life. However, these are neutral factors in the determination of the appeal.
23. The appellant submits that many villages in North Kent have limited facilities and an absence of footpaths, with children walking to and from school. They go on to state that there have been several large new developments which are over 2 miles from a bus stop or facilities such as shops. However, I have no further details before me and so cannot draw any meaningful comparisons. Nevertheless, such matters do not lead me to a different conclusion on the main issues in this appeal. In any event, I have assessed the appeal on its own merits.
24. I have considered all other matters raised by interested people. However, as I have found the development to be unacceptable for the reasons given, it is not necessary for me to reach a conclusion on these matters.

Planning Balance and Conclusion

25. At the time the application was determined the Council could not demonstrate a Framework compliant housing land supply and the 'tilted balance', as set out in the Framework⁴ was engaged. The Council confirm⁵ that they now have a supply of 5.13 years. This is not disputed, and I have no reason to disagree with that view. As such the tilted balance as set out at Paragraph 11 d) of the Framework is not engaged.
26. I have carefully considered the development as a scheme for self-build. The Self-build and Custom Housebuilding Act 2015 (as amended) places a statutory duty on the Council to keep a register of persons who are interested in acquiring a self-build or custom-build plot, and to also grant enough suitable development permissions for serviced plots to meet this demand. The proposal would add to the range of housing. Although there is support for meeting the housing needs for different groups in the community within the development plan and the Framework, this benefit would be limited as only one unit is proposed. Furthermore, this does not diminish other aspects of the development plan and the Framework that seek to deliver homes at appropriate locations.

⁴ Paragraph 11 d) of the National Planning Policy Framework

⁵ 5 year Housing Land Supply calculation (Affordability ratio update March 2024)

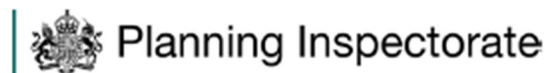
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27. I note the environmental credentials of the proposed development in terms of the inclusion of energy efficiency measures and biodiversity improvements. However, these factors carry no more than limited weight in favour of the development. There would be moderate, social and economic benefits associated with the proposal relating to construction employment, spend within the local economy once the dwelling is occupied and the personal well-being benefits of residing in a countryside location. The dwelling would also contribute towards housing provision, noting that the Framework is supportive of small and medium sized sites, including windfall sites, which can make an important contribution to meeting the housing requirement of an area, and are often built out relatively quickly. However, given the small scale of the proposed development the weight afforded to these benefits is limited.
28. Even if the 'tilted balance' were engaged, in this circumstance, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. Accordingly, the material considerations in this case do not indicate that the proposal should be determined other than in accordance with the development plan.
29. For the reasons given above, having had regard to the development plan and Framework as a whole, the appeal is dismissed.

R Gee

INSPECTOR

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Appeal Decision

Site visit made on 14 November 2024

by **B Pattison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 December 2024

Appeal Ref: APP/V2255/W/23/3333153

8 Cross Lane, Faversham, Kent ME13 8PN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr David Milham, Goodspire Limited against the decision of Swale Borough Council.
 - The application Ref is 23/502802/FULL.
 - The development proposed is to extend the existing office premises located on the ground floor of 8 Cross Lane Faversham by converting the existing first floor flat (8a Cross Lane) and change of use to provide two additional offices with storage and toilet. The front first floor office will be approximately 14 sq. m and the rear 12 sq.m.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on local housing supply.

Reasons

3. The appeal site is a first floor flat. The ground floor of the property is in use as offices occupied by a commercial finance consultancy. The proposal would create additional office space, enabling the business to employ an additional consultant and administrator.
4. The appeal site is located within Faversham town centre but is not within a defined primary or secondary shopping frontage. Policy DM1(3) of Bearing Fruits 2031: The Swale Borough Local Plan (2017) (Local Plan) outlines that, outside the primary and secondary shopping frontages the Council will permit non-retail uses providing that, amongst other things, they do not result in the loss of existing residential accommodation. As a result, the appeal site would not be a suitable location for the appeal scheme when applying local planning policies.
5. As the proposal would result in the loss of a residential dwelling, the development conflicts with the policies of the Local Plan because it does not meet any of the exceptions identified within Policy DM1. This would be harmful given the relative certainty and public interest that flows from a planning system that is genuinely plan led. Consequently, the proposal would be contrary to Policy DM1 and DM2 of the Local Plan which seek, amongst other aspects, to prevent the loss of residential accommodation.

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Other Matters

6. The appeal property is within the Faversham Conservation Area (CA). There is no dispute between the parties that the proposed physical works to the property, which would be limited to the internal arrangement of rooms, would have an adverse effect on the character or appearance of the CA. Having considered the proposal and visited the site I concur with that view. Accordingly, it is my view that the development proposed would preserve the character and appearance of the CA and I shall make no further reference to this matter.
7. The appellant has suggested that there is no alternative office accommodation currently available in Faversham, and that if the appeal is not granted the business will move premises to Canterbury, resulting in loss to the local economy and increased commuting emissions as a result of changes to employees' commuting patterns. A number of offices and commercial premises in the local area have also been converted to residential use resulting in a loss of available commercial floorspace. I am sympathetic to the appellants' difficulties finding alternative office floorspace, and acknowledge the content of the Swale Employment Land Review (2018). However, I have not been provided with detailed evidence about the current supply of available local office floorspace and there is little evidence before me that the business would be required to re-locate further afield given other options that might be available to them.
8. The proposal would support the expansion of a local business, enabling the employment of an additional consultant and administrator, and would provide benefits to the local economy through additional salary payments. Due to the small scale of the proposal these factors are afforded moderate weight.
9. The Council can demonstrate a five-year supply of housing land, and the emerging Faversham Neighbourhood Plan may indicate sufficient capacity to accommodate Faversham's housing need through site allocations. However, one of the Government's objectives, set out within paragraph 60 of the National Planning Policy Framework (2023), is to significantly boost the supply of housing. Consequently, this tempers the weight given to the scheme's economic benefits.
10. The appellant has identified development plan policies relating to bringing forward an increase in homegrown business creation and inward investment and the extension of existing employment sites, which it is contended that the proposal would accord with. I also acknowledge that Cross Lane has other commercial uses within it and that no concerns have been raised in relation to the office's proposed opening hours. However, the absence of harm or development plan conflict with respect to other relevant matters is neutral and weighs neither for nor against the proposal.
11. My attention has been drawn to a planning permission (Ref: 22/504451/FULL) for or the change of use of the rear of 14 West Street from residential use to a health centre. However, the Council's evidence indicates that this site, unlike the appeal site, is located within a defined primary shopping frontage. Policy DM1 of the Local Plan does not provide the same protection for residential accommodation which is located within primary shopping frontages and consequently the circumstances are different. I therefore give this other case

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limited weight, and I have determined this appeal on its individual planning merits against the local and national planning policies.

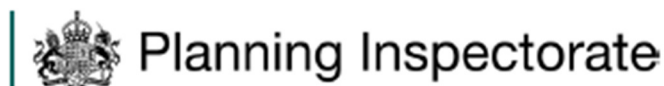
Conclusion

12. I am mindful of the Public Sector Equality Duty (PSED) arising from section 149 of the Equality Act 2010. This requires me to have due regard to the need to eliminate unlawful discrimination, harassment, and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not. Amongst other things, for the purposes of the Equality Act, protected characteristics include disability. I am satisfied that the proposal would provide additional office floorspace which could accommodate a private office area for the sole use of an employee who has a protected characteristic for the purposes of applying the PSED.
13. I have given careful consideration to the employee's personal circumstances in this case. While I recognise the importance of having sufficient office space it has not been shown that the specific accommodation needs cannot be met in another way. On the basis that an alternative could deliver similar benefits for the appellant, these personal circumstances do not outweigh the harm that I have found to the local housing supply.
14. Whilst the proposal would provide economic benefits, it would harm local housing supply, and the appeal site's location does not meet the criteria for office conversions set out within Policy DM1 (3) of the Local Plan. Therefore, the proposal does not accord with the development plan as a whole and there are no other considerations, including the Framework, that outweigh this finding. Therefore, I conclude that the appeal should be dismissed.

B Pattison

INSPECTOR

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Appeal Decision

Site visit made on 5 November 2024

by **Robert Naylor BSc (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 November 2024

Appeal Ref: APP/V2255/W/24/3339319

8 Harty Ferry Cottages, Harty Ferry Road, Oare, Kent ME13 0QD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr T Hammond against the decision of Swale Borough Council.
 - The application Ref is 23/503035.
 - The development proposed is the change of use land from agricultural use to residential garden and the erection of cabin on existing outbuilding footprint and siting of 1no. caravan.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above is taken from the Council's Decision Notice, as it is more precise and was agreed by the appellant¹ prior to the determination of the application. However, I have omitted the word "retrospective" as this is not an act of development under Section 55 of the Town & Country Planning Act 1990 (as amended).
3. Nevertheless, the cabin and the caravan were in situ at the time of my visit. The location and appearance of these outbuildings corresponds with the details shown on the application drawings. As such, for the avoidance of doubt, I have considered the appeal based on the details shown on the application drawings submitted.
4. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published.

Main Issue

5. The main issue is the effect of the development on the character and appearance of the countryside with specific regard to the Kent Level Area of High Landscape Value (AHLV), having regard to the outbuildings and the associated change of use to garden land.

Reasons

6. The appeal relates to the change of use of the L-shaped area of land immediately adjoining No 8 Harty Ferry Cottage from agricultural use to

¹ Email dated 16 August 2023

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garden, and the erection of a cabin and siting of caravan. The appeal site occupies a significant area, which extends the entire length of the existing terrace, of which No 8 is at the end. Nevertheless, the proposal is for the domestic use by the appellant and members of their family. Whether the existing use is agricultural or domestic is not before me, as this would be a matter dealt with under a certificate of lawfulness application.

7. The area is mainly open although there are several ancillary outbuildings and structures including some decommissioned military structures. The site is part of the Luddenham and Conyer Marshes as designated in the Swale Landscape Character and Biodiversity Appraisal 2011 Supplementary Planning Document (SPD). The SPD indicates that the landscape is largely unspoilt and is considered to be in good condition, with a high degree of sensitivity. The key characteristics of the area are rough grassland largely used for cattle and sheep grazing and large-scale landscape with little sense of enclosure, amongst others. The appellant acknowledges that the immediate area is rough grass and part of the wider marshland.
8. Notwithstanding the nearby cottages and outbuildings, the immediate area has a relatively open, undeveloped rural feel which contributes positively to the rural character and appearance of the Kent Level AHLV.
9. Policy DM13 of the Swale Borough Local Plan (SBLP), adopted July 2017 allows gardens of dwellings to be extended in the rural area, where it can be demonstrated that it would not result in significant harm to the landscape, biodiversity or form of a settlement or inhibit the appropriate management of the land in accordance with Policy DM24 and DM33 and the Council's Landscape Character and Biodiversity Appraisal 2011 SPD; and a scheme of landscaping is provided and implemented that would, conserve, create, or restore the character of the landscape concerned. SBLP policy DM24 also seeks the conservation and enhancement of the rural landscape.
10. The proposal would significantly increase the domestic garden area of No 8 and would provide additional outbuildings and structures within the vicinity, albeit some distance from the dwelling itself. I acknowledge that the design and appearance of the outbuildings are akin to ancillary units often found in domestic gardens. However, the provision of these, alongside other features which would be commonly found within a domestic garden including fences and means of enclosure, children's play equipment, garden furniture and other domestic paraphernalia, would provide a distinctly formal and domesticated appearance, at odds with the key characteristics of the Luddenham and Conyer Marshes, as set out in the SPD.
11. While conditions could be imposed to limit permitted development, and thus the scope for further structures, there is no effective planning mechanism to control the wider range of domestic paraphernalia and informal landscaping which could be introduced over time. Given the extent of the appeal site, and its location within a sensitive area, noted for its open areas of grazing marsh, further domestication and erosion of the site's open character would be harmful.
12. Part C of policy DM24 requires all landscapes to be informed by a landscape and visual impact assessment (LVIA). I have not been provided with an LVIA, which would provide a qualitative judgement on the effects of the land use change and development as proposed, on the visual amenity in the area; the

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significance of change in the character of the landscape; and whether these would be positive or negative.

13. Nevertheless, the appellant highlights that wider views of the site would be set against the “block” of the existing cottage terrace, which would minimise visual impacts of the proposal. However, the proposal would provide domestic use and additional outbuildings located some distance from the terrace and would be separated from it by the existing garden areas of those properties. The overall size and scale of the area proposed to be changed would be at odds with the existing modest gardens at the rear of the terrace and appear as an incongruous feature within the landscape.
14. Furthermore, there is insufficient information before me with regard to any proposed landscaping and whether this would mitigate the harm I have identified, or whether it would be appropriate in relation to the open rural character of the area. Given one of the key characteristics of the Luddenham and Conyer Marshes is large-scale landscape with little sense of enclosure, I cannot be certain that any proposed landscaping would avoid, minimise or mitigate adverse impacts on this character. Nor have any social or economic benefits been progressed by the appellant, that would outweigh the identified harm to the Kent Level AHLV.
15. For the above reasons, I conclude that the development is harmful to the character and appearance and intrinsic beauty of the countryside. As such, it would conflict with the relevant requirements in Policies DM13 and DM24 of the SBLP, the aims and objectives of the Swale Landscape Character and Biodiversity Appraisal SPD and the relevant paragraphs in the Framework, which collectively seek to protect, conserve and enhance the landscape value of the countryside, amongst other things. However, I do not find conflict with Policy ST3 of the SBLP which focuses principally upon settlement strategy. The content of this policy is largely irrelevant to the specific harm I have identified above.

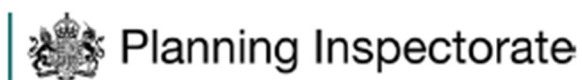
Conclusion

16. For the reasons outlined above and having regard to the development plan, and all other relevant material considerations including the provisions of the Framework, the appeal is dismissed.

Robert Naylor

INSPECTOR

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Appeal Decision

Site visit made on 20 November 2024

by **A Owen MA BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 November 2024

Appeal Ref: APP/V2255/W/24/3337366

Bullfinch Cottage, Lewson Street Road, Norton, Kent ME9 9JQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs S Southworth against the decision of Swale Borough Council.
 - The application Ref is 23/503412/FULL.
 - The development proposed is single storey granny annexe linked by covered way to main dwelling.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on the character and appearance of the area, and whether this location is suitable for this development.

Reasons

Character and appearance

3. The appeal site accommodates a detached dwelling within a row of a handful of houses, with some larger farm buildings to the south. The surrounding land is in agricultural use.
4. There is a significant gap between the existing house at the appeal site and the pair of semi-detached houses to the north, and there are no other domestic outbuildings alongside any of the neighbouring houses. This results in the immediate area having a simple, uncluttered and spacious character, in keeping with the rural surroundings.
5. The proposed annexe would sit to the side of the host dwelling on a part of the plot which currently has a thick conifer hedge on it. It would be set back very slightly behind the building line of the host dwelling but would be considerably further forward than the adjacent houses to the north. It would also substantially fill the space to the boundary, which is demarked by a close-boarded fence. The annexe would have a significant depth, greater than that of the main house, and would have a hipped roof with a ridge much higher than the eaves of the host dwelling.
6. When seen in the street scene, particularly in views from the north across the open area at the front of the neighbouring house and above the boundary fence, the large depth and height of the annexe in combination with its siting substantially forward of the neighbouring house, would result in the

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development appearing excessively prominent in the street scene. It would detract from the characteristic spaciousness of the area and would appear incongruous. It would therefore contrast harmfully with the character and appearance of the area.

7. The proposal would therefore conflict with policy DM14 of the Swale Borough Local Plan (2017), which seeks to ensure that all development is well sited and of a scale and appearance that is sympathetic and appropriate to its location; and Local Plan policies DM16 and DM11, which seek the same with specific reference to domestic extensions and extensions in rural areas respectively. I give substantial weight to this conflict.
8. Due to the relatively small scale of the development and its siting at a domestic property, I find no conflict with Local Plan policy DM24 which seeks to ensure that non-designated landscapes are protected.
9. Both parties have referred to a planning permission for a garage at the site from 1993. This permission was not implemented. However, from the details provided, it appears that that proposal was not sited as far forward on the plot and was not as deep as the current scheme. As that proposal was over 30 years ago and so was considered against a different policy framework, and was smaller than the scheme before me, it is not comparable to the appeal proposal and has no bearing on my decision.

Location

10. The appeal site is distant from any shops or services and is outside any built-up area boundary. It is in the open countryside for the purposes of planning policy. The provision of a new dwelling in the open countryside would not be supported by Local Plan policy ST3 which sets out the Council's settlement strategy. This aims to focus development to the larger settlements where services are present and not the smaller settlements which have poorer access to services by sustainable modes of transport.
11. However the proposal is for a granny annexe. This would be to accommodate the appellant's parents and is needed to support the appellant's mother who has dementia. The annexe would have all the facilities necessary for independent living including a kitchen, lounge, bathroom and two bedrooms.
12. Nonetheless, it would have patio doors opening out onto a garden shared with the existing house and would be physically linked to the main house by a covered link. The front door to the granny annexe would be accessed through this covered link as would the kitchen door of the host dwelling. The covered way would be narrow and hence the two buildings would be very close together.
13. Overall, although the proposal could be lived in independently, it would have functional and physical connections with the main house. Moreover, were planning permission to be granted it would explicitly be for a granny annexe and therefore the use of the building as a separate dwelling would require a separate planning permission. On the basis that it would be ancillary to the main house and would not comprise a separate household, there would be no conflict with policy ST3 as set out above.

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Other Matters

14. Dismissing the appeal would interfere with the appellant's, and their family's, rights to respect for their private and family life and their home under Article 1 of the First Protocol and Article 8 as set out under the Human Rights Act 1998. However, those are qualified rights and interference with them in this instance would be justified in accordance with the law and necessary in a democratic society in pursuance of well-established and legitimate aims to, amongst other things, protect the character and appearance of the countryside. Furthermore, the relevant planning policy objectives could not be achieved by less imposing means. Dismissal of the appeal would be proportionate and the minimum necessary.
15. I have also had due regard to the Public Sector Equality Duty (PSED) set out under s149 of the Equality Act 2010, but the harms caused by the proposed annexe as set out above, outweigh its benefits in terms of eliminating discrimination against persons with the protected characteristics of age and disability, advancing equality of opportunity for those persons, and fostering good relations between them and others.

Conclusion

16. Although the development would not be unsuitably located, it would harm the character and appearance of the area. The proposal would conflict with the development plan as a whole and there are no other considerations that indicate a decision other than in accordance with the development plan. As such the appeal is dismissed.

A Owen

INSPECTOR

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Appeal Decision

Site visit made on 5 November 2024

by **Robert Naylor BSc (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 December 2024

Appeal Ref: APP/V2255/W/24/3339042

Callum Park, Basser Hill, Lower Halstow ME9 7TY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Custom Build Homes against the decision of Swale Borough Council.
 - The application Ref is 23/503336/OUT.
 - The development proposed is an application for outline planning permission for the proposed development of two additional semi-detached self-build homes (Plot 10) on the land at Callum Park, Basser Hill, Lower Halstow ME9 7TY
-

Decision

1. The appeal is allowed, and planning permission is granted for outline planning permission for the proposed development of two additional semi-detached self-build homes (Plot 10) on the land at Callum Park, Basser Hill, Lower Halstow ME9 7TY in accordance with the terms of the application, Ref 23/503336/OUT, subject to the conditions in the attached schedule.

Preliminary Matters

2. The proposal seeks outline permission, with all matters reserved except for access. I have considered the appeal on this basis and have treated any plans in relation to other matters as illustrative only.
3. The Council have confirmed that following the submission of the Primary Ecological Assessment¹ the second reason for refusal has been addressed, subject to suitable conditions.
4. The description of development cited in the planning application form differs to that contained within the decision notice and appeal form. There is no evidence that this change was formally agreed. In the interests of clarity, I rely upon the description of development as contained in the application form for the purposes of the heading above and paragraph 1 of my Decision.
5. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published.

Main Issues

6. The main issues are:

¹ Prepared by Arbtech dated 27/11/2023

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- whether the site is in a suitable location having regard to the Council's development strategy and national policy;
- the effect of the development on the character and appearance of the open countryside with specific regard to the Area of High Landscape Value (AHLV); and
- the integrity of the Swale and Medway Marshes Special Protection Area (SPA).

Reasons

Location

7. The Framework, amongst other things, advises that housing development in rural areas should be located where it will enhance or maintain the vitality of rural communities and identify opportunities for villages to grow and thrive, especially where this will support local services. The Framework also seeks to promote alternative forms of transport other than the private car. Policy CP2 of the Swale Borough Local Plan (SBLP), adopted July 2017 relates to sustainable development, which reflects the aims and objectives of the Framework in regard to sustainable transport.
8. Policy ST3 of the SBLP directs that development will not normally be permitted in the open countryside outside the built-up area boundaries. Policy ST5 identifies the main urban centre in the borough as Sittingbourne, which will provide the primary urban focus for growth and town centre regeneration with housing to be provided within urban confines, or extensions to the settlement, where indicated by proposed allocations.
9. Both parties agree that the site would be located outside any identified development boundary, with the closest settlement being Lower Halstow, a Tier 5 settlement, less than half a mile away. Lower Halstow provides basic services to meet some day to day needs for residents and includes a village hall, local shop, a primary school, a pub, playing fields and a church. As such, given the appeal site is outside of the defined limits of the settlement, there is a presumption against development in this location.
10. The main routes to access Lower Halstow would be via narrow country lanes which do not have pavements and are predominantly unlit. The lack of footpaths or streetlighting would make it less attractive for people to walk, especially for small children going to school. However, I would acknowledge that there are public footpaths which also lead to Lower Halstow providing alternative routes. Nevertheless, in terms of other alternative means of transport, the general condition of local infrastructure, together with the distance, is such that travel to this settlement by more sustainable means such as walking, and cycling would be highly unlikely particularly when carrying shopping, in the dark or during inclement weather conditions.
11. Whilst the principle of residential development in the area has been established given the extant planning permission² which has been commenced with servicing and foundations laid at the site, the scheme subject to this appeal is nevertheless outside of the defined limits of a settlement. Although the proposed development would contribute towards housing provision in

² Swale Borough Council Planning Ref: 20/501002/OUT

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Swale Borough, it would nevertheless be in conflict with SBLP Policies CP2, ST3 and ST5. I will return to consider the weight to be given to this conflict in the planning balance section below.

12. Whilst the Council's refusal refers to a conflict with SBLP Policy DM6, I do not have any substantive evidence that the proposal would unacceptably effect traffic conditions, and subject to conditions a satisfactory means of access could be provided. Given that this is an outline application with all matters reserved, other than access, I find this policy largely irrelevant to this main issue.

Character and appearance

13. Paragraph 180 of the Framework requires amongst other things that valued sites be protected and enhanced in accordance with its identified quality in the development plan. Policy DM24 of the SBLP states that within the AHLV planning permission will be granted subject to the landscape being conserved and enhanced.
14. As well as the AGLV designation, the site is also part of the Upchurch and Lower Halstow Fruit Belt as designated in the Swale Landscape Character and Biodiversity Appraisal 2011 Supplementary Planning Document (SPD). The key characteristics of the area are small to medium-scale rural landscapes with a strong sense of enclosure and small nucleated villages with historic centres and modern urban expansion on the periphery, amongst others. The SPD notes that the landscape is in 'Moderate' condition and that it has 'Moderate' sensitivity.
15. Given that all matters other than access are reserved, the details of landscape and design would be secured at the reserved matters stage, therefore it is the principle of access and the dwellinghouses in the existing landscape that I am considering here.
16. The appellant has submitted a Landscape Visual Assessment (LVA)³ for the proposal. The LVA concludes that the proposal would result in small scale effects on the local landscape character within areas in close proximity to the site and to the site itself, which are judged to be moderate/slight adverse. However, the LVA highlights that mitigation planting would have a neutral effect on local landscape character from longer views. Furthermore, given there are existing farm buildings, the extant permission and access tracks which are all visible in the local landscape, the proposal would not be incongruous in this context.
17. I have not been provided with any substantive evidence from the Council to counter the findings of the LVA, however from my own observations on site I would concur that there would be minimal visibility of the appeal site from outside the appellant's private land. As such the outline proposal would at the very least conserve the valued landscape.
18. Criterion 2.b of Policy DM24 requires the avoidance, minimisation and mitigation of adverse landscape impacts, or that any significant remaining impacts should be balanced against the social and economic benefits. Given any harm to the AGLV would be negligible, the social and economic benefits of the proposal (set out in the planning balance) would significantly and

³ Landvision Landscape Architects Ref: 2024/CP/LHAL/010 dated 09/02/2024

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demonstrably outweigh the harm to the landscape value of the AHLV. Therefore, the proposal would accord with the requirements of policy DM24 and, consequently, paragraph 180 of the Framework.

Integrity of the Swale and Medway Marshes SPA

19. The appeal site is located within 6km of The Medway Estuary and Marshes SPA which is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the HRs). SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.
20. The HRs require that the competent authority must ensure that there are no significant adverse effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of the SPAs. The effects arising from the proposal need to be considered in combination with other development in the area, adopting a precautionary approach.
21. The proposal therefore has the potential to affect the site's features of interest, and I must undertake an Appropriate Assessment (AA) to establish the likely impacts of the development. As such, I have had regard to the AA provided by the Local Planning Authority, which includes advice provided by Natural England to the Council.
22. Since the development is relatively small, the number of additional recreational visitors would be limited and the likely effects on SPA from the proposed development alone may not be significant. However, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Natural England advice is that when considering any residential development within 6km of the SPA, the Council should secure financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG), and that such strategic mitigation must be in place before the dwelling is occupied.
23. The planning application did not provide any mechanism for a financial contribution, but the Council indicated that, were such a mechanism to be provided, their concern on this matter, and their third reason for refusal, would fall away. As part of the appeal the appellant has submitted an appropriately worded and executed unilateral undertaking (UU), which would secure the necessary mitigation. Given the evidence before me, I am satisfied that the UU will secure the necessary mitigation measures, that the contributions would be used for their intended purpose, and that the intended mitigation would be effective to adequately overcome any adverse effects of the proposal. Consequently, the proposal would not adversely affect the integrity of the SPA sites.

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Other Matters

24. In regard to housing land supply, since the determination of the application the Council has updated its position in respect to the five-year supply of deliverable housing sites (FYHS)⁴. This was further updated to reflect the Framework and removal of the 5% buffer, indicating that the FYHS was 5.13 years. However, the appellant highlights that this figure has recently been tested at Inquiry⁵ where the Inspector found that the deliverable supply would equate to circa 4.1 years' worth. The Council have been given the opportunity to dispute this position but have provided no evidence to counter these findings. As such, from the evidence before me, the most up-to-date position is that currently there is a shortfall in the Swale Borough FYHS, and this carries significant weight.
25. From the evidence before me the updated self-build register highlights that there is an unmet demand for self-build custom housing within the district, for which there is strong Government support. The appeal proposal would provide an additional 2 self-build houses through a planning obligation. As such, this would provide weight in favour of the scheme.
26. I recognise that the proposal has generated public interest, with several consultation responses submitted in response to the planning application and appeal. I have taken into account all of the other matters and concerns raised in the submissions by the interested parties, which include but are not limited to, the impact on the Grade II listed building, living conditions of neighbours and pollution from noise and light.
27. The site is within the setting of Great Barksore Farmhouse which is designated as a Grade II listed building. I have a statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest.
28. The Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 205 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.
29. The significance of Great Barksore Farmhouse is derived from its architectural interest as a rural dwelling, which includes a timber frame clad with painted weatherboard and a concrete tiled roof. Whilst located close to the site boundary, there would be a significant separation distance between the listed building and the proposal, including some screening between them, which is unlikely to affect the listed buildings setting. Furthermore, details of the appearance and scale would be subject to reserved matters to ensure an appropriate design in this context.
30. Therefore, the current proposal would not result in any harm to the setting of Great Barksore Farmhouse, which would accordingly preserve its significance.

⁴ Housing Land Supply Position Statement 2023/2024 published in November 2023

⁵ PINS Ref: APP/V2255/W/23/3333811

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Consequently, as the proposal would preserve the significance of the identified listed building it would therefore accord with the Act, and this would be a neutral factor which would not weigh for or against the proposal.

31. In terms of the living conditions of surrounding existing residents, I have had regard to potential overlooking and loss of privacy. The current outline application does not seek approval of the detailed layout albeit that an indicative layout has been submitted. Nevertheless, the submitted plan shows how there is a significant degree of separation to existing houses. It is acknowledged that outlook from existing surrounding properties would inevitably change, however I have no substantive basis to consider that the proposed development could not be designed at the reserved matters stage to avoid unacceptable loss of privacy and outlook from existing neighbouring properties.
32. Whilst the proposed development would inevitably increase the noise and lighting levels associated with the site, it would be in the context of the prevailing residential use granted in the immediate vicinity subject to the extant permission. The levels concerned would therefore be unlikely to be unacceptably harmful in that context.

Planning Balance

33. The Council cannot demonstrate a FYHS at present, consequently, because of the provisions of footnote 7, paragraph 11d) ii. of the Framework should be applied. As such, it is necessary for me to determine whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits of the scheme. I have found that the proposed development would conflict with the Council's spatial strategy as set out in policies CP2, ST3 and ST5 of the SBLP in terms of its location outside of the defined limits of development, which is harm that attracts significant weight.
34. Having regard to the Government's objective of significantly boosting the supply of homes, the proposed development would have the benefit of contributing 2 additional self-built dwellings towards the supply of housing of which there is an identified need locally. Those combined benefits therefore attract significant weight. This is particularly relevant given that the Council is currently not able to demonstrate FYHS, with there being a deficit of 4.1 years.
35. There would also be economic benefits relating to the provision of construction related jobs during the construction phase, albeit on a temporary basis, and the subsequent local spending by prospective residents of the proposed development. The proposal would also have the potential benefit of delivering enhanced biodiversity. These social, economic and environmental benefits all attract substantial weight in favour of the proposal.
36. Although the proposal would result in a limited conflict with policies CP2, ST3 and ST5 of the SBLP, this would result in only limited environmental harm which does not demonstrably and significantly in this case outweigh the benefits when assessed against the policies in the Framework taken as a whole. Therefore, the presumption in favour of sustainable development applies which points towards the grant of planning permission.

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Conditions and planning obligations

37. The Framework states that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. The provisions of Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended) and Paragraph 57 of the Framework state that planning obligations must only be sought where they meet all of the relevant tests.
38. Planning Obligations have been submitted within the UU, which make provision for the proposed dwellings to be on-site self-build custom houses in accordance with the Self-build and Custom Housebuilding Act 2015 (as amended) and the associated Self-build and Custom Housebuilding Regulations 2016. The UU also secures the necessary SPA mitigation measures through a SAMP contribution. I note that the UU is index linked, thus there is provision for any future increase in the required SAMP contributions.
39. The UU is therefore necessary to make the development policy compliant, is related directly to the development and provides a fair and reasonable contribution from the appellant related in scale and kind to the proposal. Consequently, in terms of my considerations this represents benefits of the development, weighing in its favour.
40. The Council has provided a list of suggested conditions that it considers would be appropriate. I have assessed those with reference to the advice in the Framework and Planning Practice Guidance and have amended the wording of some without altering their fundamental aims.
41. The standard conditions are necessary, which relate to the timescale for commencement of development, to ensure the submission of details relating to the reserved matters, and the timescale for the latter. For certainty, a condition requiring the development to be carried out in accordance with the approved plans is also necessary.
42. In the interests of highway safety and neighbouring amenity I have imposed a requirement for a Construction Management Statement (CMS), which is necessary to be submitted prior to works commencing. However, I have not attached a specific condition relating to construction hours, as this can be included within the CMS.
43. To ensure that the proposal does not adversely impact on protected species and provides biodiversity enhancements it is necessary to impose a number of relevant conditions, including to control external lighting. The condition regarding the external lighting is also necessary to protect neighbouring amenity.
44. A condition securing on-site ecological enhancement is necessary in order to ensure the development protects and improves biodiversity features of the site. I have imposed conditions in respect to the landscaping which are necessary to secure the satisfactory appearance of the development in the interests of the surrounding character, neighbouring amenity and encouraging wildlife and biodiversity.
45. I have also imposed a condition relating to contaminated land which is necessary to mitigate the risks of contamination to construction workers,

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future users of the land, and offsite receptors including neighbouring occupiers and water and ecological systems.

46. A condition is necessary to ensure the development is energy efficient, to comply with the aims and objectives of SBLP policy DM19, however I have reduced the requirement to a 25% reduction in Dwelling Emission Rate compared to the Target Emission Rates as it has not been adequately explained by the Council why a 50% reduction is required.
47. In regard to the wider sustainability requirements, a condition requiring enhanced water efficiency standards is necessary to ensure relevant compliance with technical standards. I have also added that electric charging points are delivered to enable the use of electric vehicles to further achieve sustainability objectives.
48. Finally, I also have imposed conditions to ensure that there are suitable access routes, appropriate vehicle and bicycle parking, and a suitable car parking layout is maintained in the interests of highway and pedestrian safety and the living conditions of future residents.

Conclusion

49. The proposed development would conflict with the development plan, but material considerations indicate that a decision should be made other than in accordance with it. For the reasons give the appeal should be allowed.

Robert Naylor

INSPECTOR



Appeal Decision

Site visit made on 16 October 2024

by **Stewart Glassar BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22nd November 2024

Appeal Ref: APP/V2255/W/24/3340696

Land adjacent 113 Chaffes Lane, Upchurch, Sittingbourne ME9 7BB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by C&M Capital Ltd against the decision of Swale Borough Council.
 - The application Ref is 23/502056/OUT.
 - The development proposed is the erection of 5no. detached and 2no. semi-detached residential dwellings.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of four detached and four semi-detached residential dwellings at Land adjacent 113 Chaffes Lane, Upchurch, Sittingbourne ME9 7BB in accordance with the terms of the application, Ref 23/502056/OUT, subject to the conditions in the attached schedule.

Preliminary Matters

2. The application is submitted in outline with matters of access and layout to be considered at this stage. I have dealt with the appeal on this basis treating any details of other matters shown on the plans as illustrative.
3. I have taken the description of development from the Council's decision notice and appellant's appeal form as this more accurately describes the development that is sought.

Main Issue

4. The main issue is whether the appeal site is an appropriate location for the proposed development having regard to local and national policies for the distribution of housing and the character and appearance of the area.

Reasons

5. The Council's spatial strategy seeks to focus development within the borough's main settlements, whilst allowing more limited growth in smaller rural centres and villages. This approach is designed, amongst other things, to ensure that development occurs close to existing services and facilities, which in turn reduces the need to travel and also protects the open countryside from inappropriate sporadic development.
6. The appeal site comprises an existing field adjacent to, but outside, the defined settlement boundary of Upchurch. The Local Plan recognises that villages such as Upchurch may have some services and facilities to meet some day-to-day needs but that travel to other centres for more major shopping,

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leisure and employment needs will occur. Nevertheless, it acknowledges that some windfall development within the built-up boundaries can help to improve the viability of existing services and deliver a more sustainable approach towards development and the use of private transport.

7. The site is sufficiently close to the facilities within the village to enable them to be accessed by most people without needing to use a private motor vehicle. The village can offer some facilities including a primary school, village shop and public house. The nearest bus stop is walkable to the site and these routes are served by footpaths with street lighting.
8. Future occupants would need to travel to larger centres for more major needs, and this would, in the vast majority of cases, be done by private car. However, this does not appear to conflict with how the Local Plan sees the role of Upchurch in meeting only some of the needs of residents. Furthermore, the National Planning Policy Framework (the Framework) recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. It would therefore be unrealistic to expect occupiers of more rural sites to rely completely on walking, cycling or public transport journeys to access normal day-to-day services and facilities.
9. The proposed development would represent a continuation of the housing on the southern side of Chaffes Lane, up to its junction with Oak Lane. The proposed dwellings would be laid out to follow a similar building line to the existing houses, with their proposed number and spacing generally being reflective of the prevailing pattern of development.
10. The site would have a single vehicular point of access, to which there is no highway safety objection. The approach would minimise gaps within the front boundary of the site, enabling a more substantial landscaping scheme to be provided. By virtue of the parking areas then being to the rear of the dwellings, the buildings and structures would be contained closer to Chaffes Lane, thereby avoiding a sprawl of buildings further into the site. The boundary planting to the rear of the site could be sufficiently specified to reflect its edge of village location.
11. The proposed dwelling closest to the junction of Chaffes Lane and Oak Lane could, if considered necessary, be designed in such a way to address both roads and avoid a blank elevation at the entrance to the village. There is existing housing on the opposite side of Chaffes Lane such that the development would have a limited visual effect upon the wider area and would in effect round off the village in this location.
12. However, despite all of the above, the site is in planning policy terms within the open countryside and its development would be contrary to the Council's strategy of avoiding development of such sites. Therefore, the proposal would conflict with Policies ST3, ST5, DM14 and DM24 of the Swale Borough Local Plan 2017 insofar as they seek to ensure development is located within settlement confines and that the countryside is protected from inappropriate development.
13. It would also conflict with the Framework insofar as it supports the plan led system for the provision of development and seeks to control development in the open countryside.

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Other Matters

14. The site is within the zone of influence of the Medway Estuary and Marshes Special Protection Area (SPA) which provide wetland and important habitat that is subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations). These areas are easily disturbed by recreational activity from people and their pets and there is a reasonable likelihood that they would be accessed for recreational purposes by future occupiers of the development. Whilst the effects of the development alone would be limited, additional recreational visitors to the protected area would be likely to have significant effects when considered in combination with other proposals.
15. To mitigate this impact the Council expects that a financial contribution is made to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy. The collection of the tariff to facilitate off-site measures is intended to avoid significant or long-term impacts. Natural England concurs with this approach.
16. Such payments would normally be secured by means of a planning obligation. However, the money has already been paid directly to the Council by the appellant. A direct payment may not always provide certainty that the intended mitigation will take place. However, the Council is a responsible public body given specific powers and competencies and as part of the North Kent Environmental Planning Group is committed to mitigating disturbance to birds, caused by recreational visits to the north Kent coast. Furthermore, given that how the money should be spent has clearly been documented in the Officer Report, I am satisfied that there is sufficient certainty, and that the mitigation would be effective. As a result, following an appropriate assessment, the proposal would not adversely affect the integrity of the SPA.
17. I have noted the concerns of interested parties that some services and facilities in the area are already under pressure. However, the Council raises no such concerns and I see no reason to disagree.
18. The scheme would retain and improve a historical access to the field to the rear of the site. From my site visit it was evident that the access has not been used for some time. However, there is no substantive evidence before me to indicate that the rights to the access have in some way been extinguished or that there are highway safety reasons as to why it should not be retained or improved as part of this proposal.
19. It was suggested by interested parties that this is the first phase in a larger plan to redevelop the area. However, I must have regard to the scheme before me and consider its planning merits in the light of the prevailing planning policies. I am unable to take into account conjecture or speculation about possible future development.

Planning Balance

20. As part of this appeal the Council has confirmed that it has a housing land supply of 4.1 years. As such, the spatial strategy is not achieving the level of housing growth expected by national policy, and Paragraph 11(d)(ii) of the Framework is therefore engaged.

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21. The Framework's policies seek to boost the supply of housing from a variety of sources, including windfall sites. The Framework acknowledges that small-scale developments can make an important contribution to meeting housing requirements and be built out quickly.
22. The scheme would deliver 7 new houses on the edge of Upchurch. In the context of the current under provision of housing this would be an important contribution. Future residents would be able to access the village and contribute to the local economy and to the vitality of the community. In the shorter term, the proposed development would also bring associated economic benefits such as construction expenditure and jobs. There would be some social benefits from the additional housing. When considered collectively, the above represent significant benefits of the proposal.
23. Overall, the limited adverse impacts associated with the conflict with the development plan due to the site's location outside the planning boundaries do not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The proposal therefore benefits from the presumption in favour of sustainable development, and this indicates that permission should be granted.

Conditions

24. I have had regard to the conditions set out in the Committee Report and relevant guidance on the imposition of conditions. Both parties have had the opportunity to comment on the conditions. I have obtained the appellant's written agreement where it has been necessary to impose pre-commencement conditions.
25. In addition to the standard conditions governing the reserved matters and time limits, a condition specifying the approved plans is required in the interests of certainty.
26. Given the location of the site and the adjoining road network and dwellings, a Construction Method Statement is reasonably required prior to the commencement of development.
27. To protect the living conditions of nearby residents, it is necessary for there to be the submission of a Construction Management Plan prior to commencement of development. For similar reasons, conditions governing the hours of working and the use of pile driving are also reasonable.
28. To minimise the impact of the development on the character and appearance of the area, it is reasonable to remove permitted development rights for the construction of new accesses onto the highway and means of enclosure along the site frontages.
29. To ensure the development functions as intended, conditions governing the following matters are necessary: energy and water efficiency measures, reinstatement of the site access and footpath adjacent to Chaffes Lane, provision of visibility splays, cycle parking, bin storage, retention of vehicle parking areas, surfacing of the site access and landscape management.
30. With regard to ecology and habitat, protection measures covering wildlife, the provision of a Biodiversity Enhancement and Management Plan and a lighting plan are necessary given the site's character. I note that the scheme was

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initially assessed against the biodiversity net gain metric 4.0. At that stage there was no statutory requirement to use the metric. Despite some pre-application site clearance, I am satisfied that the habitat creation recommendations in the Biodiversity Net Gain Assessment: Feasibility Stage report would be reasonably related and proportionate to the development.

31. Given that electric vehicle charging points now fall under building regulations, and in the absence of evidence to the contrary, there is not a planning reason to secure such matters through this decision.

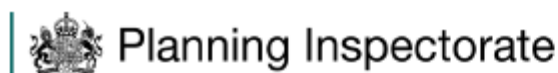
Conclusion

32. The proposal would not accord with the development plan but material considerations, especially the presumption in the Framework, outweigh this conflict. Therefore, for the reasons given, the appeal is allowed.

Stewart Glassar

INSPECTOR

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Appeal Decision

Site visit made on 20 November 2024

by **A Owen MA BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 November 2024

Appeal Ref: APP/V2255/W/24/3341202

Little's Manor Oast, North Street, Sheldwich, Faversham ME13 0LP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Pearson against the decision of Swale Borough Council.
 - The application Ref is 23/505549/FULL.
 - The development proposed is erection of a new build holiday let accommodation with associated parking.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The second reason for refusal related to the failure to make a mitigatory financial contribution towards the Thames, Medway and Swale Strategic Access Management and Monitoring Strategy (SAMMS). The Council have now confirmed that a direct payment has been made which addresses this reason for refusal.
3. As such the remaining main issue is whether the development would be suitably located with regard to its accessibility to services and facilities.

Reasons

4. The appeal site is located at the end of a long access track and accommodates the main dwelling at Little's Manor Oast and its substantial garden. A public footpath also runs along this access. The access joins the main road, identified as Ashford Road on the plans, amongst a cluster of houses known as North Street. The site is outside any identified settlement with a built-up area boundary and so for the purposes of planning policy the site is considered to be in open countryside.
5. Furthermore, the collection of houses comprising North Street is also outside any area with a built-up boundary. Indeed it is understood that the nearest settlement with a built-up area boundary is Sheldwich Lees which is around 2km from the site. There is a very limited range of facilities in Sheldwich Lees comprising little more than a school, a church and a village hall. It is highly likely, therefore, that any occupiers of the proposed holiday accommodation would be reliant on their own cars to access even basic services or facilities.
6. The explanatory text to policy ST3 of the Swale Borough Local Plan (2017) sets out the principle of steering growth to the larger settlements where

<https://www.gov.uk/planning-inspectorate>

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services are present and not the smaller settlements with poorer access to services by sustainable modes of transport. The policy itself says that development will not be permitted in the open countryside unless supported by national policy.

7. Paragraph 88 of the National Planning Policy Framework (the 'Framework') generally supports the rural economy and paragraph 89 sets out that sites to meet local business and community needs in rural areas may have to be found beyond settlements and in locations that are not well supported by public transport. Local Plan policy DM3 is consistent with this insofar as it says that tourism development should provide for an expansion of tourist and visitor facilities in appropriate locations where identified needs are not being met by existing facilities in the locality. In this case, whilst the development would provide a modest economic benefit, there is no evidence to suggest that the proposal would meet a business need for holiday accommodation that is not already being met elsewhere locally.
8. In summary, the proposal would be located in the open countryside with poor access to services and facilities, and there is no demonstrable need for the development. It would therefore be contrary to policies ST3 and DM3 as set out above, and would similarly conflict with Local Plan policy ST1 which also requires development to accord with the settlement strategy.
9. Reference has been made to holiday accommodation development in Ospringe. However the Council have confirmed that that development involved the expansion of a longstanding existing business, which is allowed for by policy DM3, and involved a replacement building with positive benefits to the Kent Downs Area of Outstanding Natural Beauty¹. As such it is materially different to the appeal proposal before me.

Other Matters

10. The visual impact of the development would be negligible given its position in a former chalk quarry. Indeed due to this sunken position, it would not be visible beyond the site boundaries, including from the public footpath. In addition the Council raise no objection to its design, its impact on neighbours or highway safety, and I have no reason to disagree. Nonetheless the lack of harms in these respects do not outweigh the adverse impacts identified above.
11. The direct payment made to the Council for the SAMMS would be to mitigate harm to the Swale Special Protection Area resulting from the development. It does not therefore count positively in favour of the proposal, is not a matter on which my decision can turn and so I have no need to consider it further.

Conclusion

12. The proposal would fail to accord with the development plan taken as a whole and there are no other considerations, including the provisions of the Framework, that lead me to a decision other than in accordance with the development plan. As such the appeal is dismissed.

A Owen

INSPECTOR

¹ Now the Kent Downs National Landscape.

Appeal Decision

Site visit made on 5 December 2024

by S M Holden BSc (Hons) MSc CEng MICE CTPP FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2024

Appeal Ref: APP/V2255/W/24/3344116

Nether Toes, Sheppey Way, Bobbing, Sittingbourne, Kent ME9 8QP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Ross Miller against the decision of Swale Borough Council.
 - The application Ref is 23/502191/FULL.
 - The development proposed is conversion and reinstatement of an agricultural building to a single dwelling house, including alterations, rebuilding works. (Alternative scheme to planning application Ref: 22/505001/FULL).
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of the development on the Council's decision notice and the appeal form differs from that on the original application form in that it includes reference to associated parking. I have determined the appeal accordingly.

Main Issues

3. The main issues are whether:
 - a) the site is suitable for a residential development having regard to local and national planning policies for the location of housing;
 - b) a residential conversion would be an acceptable use of a heritage asset:
 - a) the proposal would preserve or enhance heritage assets, including the setting of Nether Toes, a Grade II listed building;
 - b) the proposal would adversely affect the integrity of the Thames, Medway and Swale Estuary Special Protection Areas (SPAs) and Ramsar Sites.

Reasons

Suitability of location

4. The appeal site lies outside any settlement boundary and is therefore in the countryside for the purposes of planning policy. Policies ST1 and ST3 of the Swale Borough Local Plan 2017 (Local Plan), sets out a settlement strategy which is predicated on strengthening the role of Sittingbourne and directing development to the towns and other settlements that provide residents with reasonable access to the services and facilities that they require. Development beyond settlement boundaries will only be permitted where consistent with the primary objective of protecting the open countryside. In addition, Policy DM10

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of the Local Plan, amongst other things requires development to provide convenient routes and facilities for pedestrians, cyclists and public transport services.

5. Although the site is not far from Sittingbourne, as the crow flies, it is separated from it by the A249 dual carriageway. This creates a significant sense of separation from the existing urban area. Other than a public house, there are no facilities within 1km of the site. The primary school is 1.4km away, making it very unlikely that children would walk there unaccompanied, and the return journey would take parents too long to go with them. The nearest supermarket is further away, as are the other services which the town of Sittingbourne can provide. It is therefore almost certain that future occupants of a dwelling on the appeal site would primarily rely on the use of a car to reach the services and facilities that they need.
6. For these reasons, I conclude that the appeal site is not a suitable location for a dwelling due to the lack of accessibility to services and facilities for future residents. It would conflict with the above policies and the Council's spatial strategy which seeks to focus development within the identified settlements set out in its adopted hierarchy.

Acceptability of residential use

7. The appeal structure is a former agricultural building associated with Nether Toes, a Grade II listed building. It is not curtilage listed but appears to have been associated with agricultural activities on the surrounding land. Historic maps show that there was a single storey building on the site as early as 1870. An undated historic photograph shows that it was the largest of three buildings which, together with a wall which still remains, created an enclosed yard. This type of arrangement is typical of similar farmsteads dating from the middle of the 19th century.
8. The structure is no longer a functioning building but is in a state of dereliction and comprises walls, window frames and a concrete floor slab. There is no roof. The significance of the building primarily derives from its former use as part of a working farm. Its remnants, which are of little architectural merit and historic value, have only limited significance as a non-designated heritage asset (NDHA).
9. Policy DM3 of the Local Plan seeks to support the rural economy with a preference for proposals to make use of existing buildings. The policy specifically states that planning permission for residential development will not be permitted unless it has been demonstrated that there is no demand for using the site/building for rural employment or a community facility. The supporting text to the policy indicates that where a building is vacant the viability of alternative employment uses must be robustly tested. This includes requiring the applicant to market the property for commercial/community use for a reasonable period at a price that reflects that use.
10. There is no evidence that there have been any attempts to market the appeal site or the building in its current state for any commercial/community purpose. On the contrary, the appellant contends that such a requirement is unreasonable given the building's state of disrepair. I have no doubt that to renovate and restore the limited remains of this former agricultural building would require significant investment. However, without substantive

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information to demonstrate that such an investment would be unviable, there is no justification for setting aside the requirements of Policy DM3. In this respect the appeal scheme is not comparable with the nearby Dancing Dog Saloon where information demonstrated a lack of ongoing commercial viability.

11. I acknowledge that Paragraph 84(b) of the National Planning Policy Framework (the Framework) permits development of isolated homes in the countryside where the development would represent the optimal viable use of a heritage asset. However, in the absence of information about the viability of restoring the building for commercial/community purposes it is not possible to conclude that a residential use would represent the optimal use.
12. For these reasons I conclude that the proposed conversion to residential use would not be acceptable, and the proposal would conflict with the aims of Policy DM3 of the Local Plan to support the rural economy.

Effects on heritage assets

13. The appeal site is within the setting of a Grade II listed building. I therefore have a statutory duty under the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
14. The proposal would use the building's existing footprint to provide a single storey dwelling. Its bulk and scale would closely reflect the historic proportions of the former agricultural outbuilding shown in the photographic record. At present the derelict state of the structure has a negative effect on the setting of Nether Toes. This adjacent 16th century timber framed listed building is part of the surrounding rural area which contributed to the agricultural tradition of farmsteads including their associated outbuildings. The proposal would reinstate the scale of the former outbuilding and enhance the setting of the listed building. These changes would be heritage benefits of moderate weight.
15. However, the proposal would involve substantial rebuilding, including repair to the walls, reinstatement of the roof and the insertion of new windows and doors. It would therefore be beyond what is normally considered to be a conversion, a factor which significantly counts against the scheme. Furthermore, the proposal would result in a fundamental change of use of the site and building from its previous agricultural use to that of a residential one with provision of outdoor amenity space and domestic paraphernalia. The character of the former yard at the front of the building would be changed to provide parking and manoeuvring space for vehicles. Such a change of use would not contribute to an enhancement of the significance of the building's former agricultural use. These factors also count against the scheme.
16. The Framework advises that all heritage assets should be conserved in accordance with their significance. Policy CP8 of the Local plan, which requires development of designated and non-designated heritage assets to enhance their significance, is broadly consistent with Framework's approach. The Council's Supplementary Planning Guidance: *The Conservation of Traditional Farm Buildings* (SPG) goes further and sets out a series of situations where conversion to residential use will be unacceptable. This includes where a building has little intrinsic historic or architectural interest and/or a significant

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proportion of it has been lost due to demolition, dereliction, neglect or storm damage. The proposal would be at odds with this guidance.

17. There would be harm arising from the proposal as it would involve significant elements of construction which amount to more than a conversion of an existing building, and the change from agricultural to residential use would result in loss of significance to the NDHA. However, in my view the heritage benefits from a physical reinstatement of the building and the consequential enhancement of the setting of Nether Toes outweigh this harm. In this respect, the scheme would be acceptable and accord with Policy CP8 of the Local Plan and the advice of the Framework.

Integrity of the SPAs/Ramsar Sites

18. The appeal site is within the zone of influence of the Thames, Medway and Swale Estuary Special Protection Areas (SPAs) and Ramsar sites. These areas are designated for their international importance to a variety of wading birds, waterfowl and terns that overwinter or breed on the SPAs. The habitats and their associated bird populations can be harmed by disturbance arising from additional recreational visitors to the protected areas. In combination with other proposals, the scheme would be likely to have a significantly harmful effect.
19. However, a mitigation strategy, the Thames, Medway and Swale Strategic Access Management and Monitoring Strategy (SAMMS) has been adopted by the local authorities in the affected area, in partnership with Natural England (NE). NE were consulted on the application and raised no objection to the proposal subject to a financial contribution towards the SAMMS. The appellant has made a direct payment to the Council of £328.27 towards the SAMMS which seeks to mitigate the harm from additional recreational disturbance. Based on this the Council is satisfied that its second reason for refusal has been addressed.
20. However, in the context of this appeal the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) requires me as the competent authority to undertake an Appropriate Assessment (AA) and formally consult with NE to confirm the acceptability of the above approach. If I could not be certain that the mitigation would be effective, the Habitats Regulations would preclude the proposal proceeding. I return to this matter below.

Planning Balance

21. The Council is unable to demonstrate a five-year housing land supply. The information before me suggests that it stands at 4.72 years, which is a small shortfall. Nevertheless, as I have not found any significant harm to heritage assets which would provide a clear reason to refuse the scheme, the test set out in of paragraph 11 d) ii) of the Framework is triggered.
22. The proposal would be beneficial through the provision of a single dwelling which would provide a family home. It would contribute, albeit in a minor way, to addressing the shortfall in housing supply. There would be limited, short term economic benefits arising from employment at the site and through the supply chain during the construction period. These social and economic benefits attract limited weight in my assessment.

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23. On the other hand, the site's countryside location would conflict with the Council's spatial strategy and leave future residents largely reliant on car travel to reach the facilities and services they require. This would be contrary to the Framework's approach in respect of rural housing which states that housing should be located where it will enhance or maintain the vitality of rural communities (paragraph 83). Neither would it meet any of the exceptions for an isolated home in the countryside set out in paragraph 84 of the Framework. Furthermore, in the absence of evidence to demonstrate that the building could not be used for commercial purposes, it would be at odds with the aims of paragraph 88 of the Framework to support a prosperous rural economy. There would therefore be conflict with the Framework taken as a whole.
24. This leads me to conclude that the adverse impacts of the proposal would significantly and demonstrably outweigh the limited benefits. The presumption in favour of sustainable development therefore does not apply to this case.
25. If I had come to a different conclusion, it would have been necessary for me to undertake the AA and consult with NE in order to be certain that the integrity of the protected sites would not be adversely affected. However, as I am dismissing the scheme for other reasons this has not been necessary.

Conclusion

26. The proposal would conflict with the development plan. There are no other considerations, including the shortfall in housing supply, which indicate that a decision should be taken other than in accordance with the development plan.
27. For this reason, the appeal is dismissed.

S M Holden

INSPECTOR

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Appeal Decision

Site visit made on 22 October 2024

by **E Grierson BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 November 2024

Appeal Ref: APP/V2255/W/23/3331895

Scocles Farm, Scocles Road, Minster-on-Sea, Kent ME12 3RU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Michael Withers (Honey Hill Housing Ltd) against the decision of Swale Borough Council.
 - The application Ref 23/503015/SUB sought approval of details pursuant to conditions No 13,14,15,18,23,24 and 25 of a planning permission Ref 19/504831/FULL, granted on 3 June 2021.
 - The application was refused by notice dated 19 September 2023.
 - The development proposed was the redevelopment of the site for the erection of 11 dwellings, to include the demolition of the existing agricultural buildings (except the Threshing Barn), and dismantling, relocation, rebuilding and conversion of the Threshing Barn to residential use, with associated parking barns, parking, repairs to boundary wall with Scocles Court Manor, landscaping, access road and alterations to existing vehicular access.
 - The details for which approval is sought are: Condition No 15 (Manufacturers' details (including colour brochure and specification) of the windows and doors to be used in the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority prior to their installation. The submitted details shall include the following; a. Depth of reveal b. Window head and cill/sub-cill detailing c. Glazing section (thickness of glass and in case of double glazing, dimension of spacing between the panes of glass) d. Glazing bar profile(s) e. Door frame / window frame f. Weatherboard and threshold detail (for doors only)) and Condition No 18 (a detailed site layout drawing at a scale of 1:200 showing the boundary treatments to be used across the site, including details of the bricks, fencing or any other boundary treatment.)
-

Decision

1. The appeal is dismissed and approval of the details is refused, namely the details of windows and doors in pursuance of condition 15 and details of boundary treatments in pursuance of condition 18 attached to planning permission Ref 19/504831/FULL.

Preliminary Matters

2. The application sought approval of details pursuant to conditions no 13, 14, 15, 18, 23, 24 and 25 of planning permission Ref 19/504831/FULL. However, the appellant has confirmed that the appeal relates solely to conditions no 15 and 18. Therefore, I have considered the appeal on this basis.

Main Issues

3. The main issue is the effect of the proposed details in relation to windows and doors (condition 15) and boundary treatments (condition 18) on the character

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and appearance of the approved development, surrounding area and the setting of the adjacent grade II listed building.

Reasons

Condition 15

4. Planning permission was granted for the erection of 11 dwellings on the appeal site. This was subject to condition 15 which required the submission of manufacturers details (including colour brochure and specification) of the windows and doors to be used in the development including the depth of reveal, the window head and cill/sub-cill detailing, the glazing section (thickness of glass and in case of double glazing, dimension of spacing between the panels of glass), glazing bar profile(s), door frame/window frame and weatherboard and threshold details (for doors only). The condition was included by the Council in the interest of preserving or enhancing the character and appearance of the surrounding area.
5. In order to discharge condition 15, the appellants submitted various documents showing the manufacturers details for the proposed doors and windows to be used on the approved dwellings. This outlined that all windows were to be white, uPVC casement with white glazing bars included where applicable. The proposed doors for plots 1 and 2 are to be 'Neptune' uPVC double-glazed front doors coloured black with chrome door handle and letterbox and 'maze' obscure glazing, plots 3 and 4 are to be 'Luna' uPVC double-glazed front doors coloured red with chrome door handle and letterbox and 'maze' obscure glazing, plot 5 would be a 'meteor' uPVC double-glazed front door coloured lightwood with a chrome door handle and letterbox and 'cameo' obscure glazing and plots 6 to 9 are to be 'meteor' uPVC double-glazed front doors coloured red with a chrome door handle and letterbox and 'prarie' obscure glazing. All units are to have white uPVC sliding patio doors and all doors and windows would be designed to the style of the approved drawings as part of the planning permission.
6. The appeal site is located adjacent to a grade II listed building, Scocles Court. It appears that the significance of this building is derived, at least in part, from the antiquity of its structure and from its status as a well preserved example of a vernacular building of its age and type. The open and rural setting to the front of this building contributes to how this asset is appreciated and this setting makes a positive contribution to the significance of this listed building.
7. The Council's Conservation Officer contends that the proposed doors should be either of sustainably sourced hardwood timber with a traditional painted finish or composite metal and timber with a traditional painted finish. However, from the details provided, the proposed uPVC doors would have the appearance of a traditional painted timber. Therefore, from most views of the development, they would not appear significantly different from a hardwood timber or a composite metal and timber. As such, the materials proposed for the doors would not have a detrimental impact on the character and appearance of the approved development, surrounding area or the setting of the adjacent listed building.
8. However, the Council's Conservation Officer also contends that the proposed uPVC casement windows should have a flush profile. This would result in a more traditional appearance in keeping with the style of development

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approved, along with the setting of the surrounding area and the listed building. The appellant agrees with this finding, however amended details of the proposed windows have not been provided as part of this appeal.

9. It is also noted that specific section details have not been provided as required by the condition. The appellant indicates that these have been provided to the Council as part of a separate application to discharge the part of the condition relating to windows only. However, these documents are not before me and the wording of the condition relates to both doors and windows. Therefore, there is insufficient information to discharge condition 15 in line with its wording.
10. Therefore, without sufficient detail to determine otherwise, the proposed details in relation to condition 15 would result in harm to the character and appearance of the approved development, surrounding area and the setting of the adjacent grade II listed building and would conflict with Policies ST1, ST6, CP4, CP8, DM14 and DM32 of the Swale Borough Local Plan (the LP) 2017. These policies collectively seek to ensure that development achieves good design that is appropriate to its surroundings, enriches the qualities of the existing environment by promoting and reinforcing local distinctiveness, respect the integrity of heritage assets, sustaining and enhancing the significance of heritage assets with development proposals affecting the setting of a listed building preserving its special architectural or historic interest.

Condition 18

11. The original planning permission was also subject to condition 18 which required the submission of a detailed site layout drawing at a scale of 1:200 showing the boundary treatments to be used across the site, including details of the bricks, fencing or any other boundary treatment. The condition was included by the Council in the interests of visual and highway amenity.
12. The appellant has provided details stating that on the southern and western boundaries of the site a 1.8 metre high, close board feather edged fence already exists and is to remain, on the eastern boundary of the site a new 1.8 metre high, close board feather edged fence is to be installed and on the northern boundary of the site a new brick wall is to be built, which is also the subject of another condition.
13. The new fencing proposed is to be located at the front of the appeal site, adjacent to a shared space and Scocles Road and therefore would be a highly visible addition within the streetscene. However, it is noted that timber fencing of this scale and design is commonplace within the surrounding area and on Scocles Road. Therefore, such a feature would not be an incongruous addition to the site or result in harm to the character and appearance of the surrounding area. The new section of fencing would also be located some distance from the grade II listed building, Scocles Court, partially screened by the proposed brick wall, and therefore it would have a limited impact on its overall setting. As such, the boundary treatment proposed does not appear out of context with the historic setting of the listed building.
14. Therefore, the proposed details in relation to condition 18 would not harm the character and appearance of the approved development, surrounding area or the setting of the adjacent grade II listed building and would not conflict with

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Policies ST1, ST6, CP4, CP8, DM14 and DM32 of the LP. These policies collectively seek to ensure that development achieves good design that is appropriate to its surroundings, enriches the qualities of the existing environment by promoting and reinforcing local distinctiveness, respect the integrity of heritage assets, sustaining and enhancing the significance of heritage assets with development proposals affecting the setting of a listed building preserving its special architectural or historic interest.

15. However, condition 18 states 'no development beyond the construction of foundations shall take place until a detailed site layout drawing at a scale of 1:200 showing the boundary treatments to be used across the site, including details of the bricks, fencing or any other boundary treatment have been submitted to and approved in writing by the Local Planning Authority.' During my site visit I noted that construction had begun on the appeal site and development beyond the construction of the foundations was underway. Therefore, as per the wording of condition 18, these details cannot be discharged.

Conclusion

16. For the reasons set out above and having regard to all other matters raised, the appeal is dismissed.

E Grierson

INSPECTOR



Appeal Decisions

Site visit made on 8 July 2024

by **N Thomas MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 December 2024

Appeal A: APP/V2255/W/24/3337870

Stonebridge Lodge, West Street, Faversham, Kent ME13 7RU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs R Parry against the decision of Swale Borough Council.
 - The application reference is 23/502205/FULL.
 - The development is proposed adaptations and extension to Stonebridge Lodge.
-

Appeal B: APP/V2255/Y/24/3337873

Stonebridge Lodge, West Street, Faversham, Kent ME13 7RU

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
 - The appeal is made by Mr & Mrs R Parry against the decision of Swale Borough Council.
 - The application reference is 23/502206/LBC.
 - The works are proposed adaptations and extension to Stonebridge Lodge.
-

Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Procedural Matters

3. As the proposal is in a conservation area and relates to a listed building I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act).
4. Although not referred to in the reasons for refusal, the development plan includes Faversham Creek Neighbourhood Plan (NP). The appellant has provided copies of the relevant policies and I have taken them into account in my determination of the appeals.
5. Since the applications were determined, the Council has granted planning permission and listed building consent¹ to erect replacement boundary walls and gates including alterations to the access. I have taken this into account in my decisions.

¹ Ref 23/505604 and 23/505605

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6. The reasons for refusal do not refer to neighbouring listed buildings (LB) but the appellant considered the effects on them and in view of my statutory duties I have considered them as main issues. The reasons for refusal refer to Stonebridge Pond, which is identified in the NP as a non-designated heritage asset (NDHA) centred on Stonebridge Pond. I have considered it as such in my decisions.

Main Issues

7. The appeal property is a Grade II listed building (LB) described as "Faversham Stonebridge Lodge" (Ref: 1240312). It lies within Faversham Conservation Area (CA). There is a Grade II listed building adjacent to the site described as "Warehouse (G Twyman and Son Limited)" (Ref: 1067599), (Twyman's Mill). To the rear of Twyman's Mill is a further Grade II listed building, described as "Former Forge now part of curtilage of 64 West Street" (Ref: 1240483) (the Forge).
8. Given the above, I find the main issues to be whether the proposal preserves the LBs, their settings and any features of special architectural and historic interest that they possess; whether it preserves or enhances the character or appearance of the CA; and the effect on the significance of Stonebridge Pond as a NDHA.

Reasons

Stonebridge Lodge

9. The LB is a single storey building alongside West Street, with a 3-window range to the front and a left of centre doorway. The windows are hornless 8 over 8 sashes. The rear has four sash windows and a doorway, with keystones to the windows. The windows are timber and single glazed. It is in rendered brick with a short brick stack towards the centre of the ridge and a tiled hipped roof. The render has an ashlar finish to appear like stone with a thin joint line and has been painted in a pale green with a darker band below the height of the windows on the roadside elevation. Externally the building has a simple and functional appearance. The interior contains a circular painted panel on which are depicted various sabre positions.
10. The building is thought to date from the late 18th century and is likely to have provided training and space for a volunteer force established by the Royal Gunpowder works to guard against the threat of attack, known as the Powder Mill Volunteers. It was described as a watchman's house in 1806 and formed part of the Lower and Bennet gunpowder mills, which were part of the Home Works within the Royal Gunpowder Factory. It was first used as an armoury to defend the Works during the Napoleonic Wars. Gunpowder made at the Home Works was used in the Battles of Trafalgar and Waterloo.
11. In 1822 the building was being used as a charitable schoolhouse for children of workers at the gunpowder factory. It was included as part of the Home Works gunpowder works on the 1838 tithe map and the list description states it was a school from 1848-61. However, there is some evidence that it was still a school in 1868. A photograph dated 1890 shows the building with three chimney stacks at regular intervals along the length of the ridge.
12. By 1940 almost all the structures relating to the Home Works gunpowder mill had been demolished. By the late 1960s or early 1970s the building was in a

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dilapidated state and it was saved from demolition by a property developer in 1975. It was then converted for residential use and it was listed in 1980. At this time the three chimney stacks and sash windows appear to have been removed, according to photographs reportedly taken in the early to mid-1970s during renovation. It is still in use as a residential dwelling. The remaining chimney stack and the sliding sash windows are therefore likely to be replacements.

13. There is evidence of an extension to the southeastern end, with thinner walls evident externally through a slight inset, casement windows and a glass paned door. There is a filled in doorway on the rear elevation, although the lintel is low. The appellant considers that this was a mid-1970s extension of a former lean-to structure although the Council states that it was added in 1982. The hipped roof has been extended to incorporate the addition.
14. The LB is an example of a watch house and armoury associated with gunpowder manufacturing in Faversham and one of the few buildings remaining associated with Home Works gunpowder mill. Stonebridge Pond comprises waterways and a system of leats or artificial water trenches for moving powder around the mill. The proximity of the site to Faversham Creek provided a navigable route, linking to The Swale and the Medway Estuary, allowing access to nearby centres of naval activity and the import of raw materials. One of the inlets divides the garden, and there is a watercourse to the east. The garden is planted with trees, including a large weeping willow to the east of the building. The pond and gardens provide an historic context to the LB indicative of its evolving uses and are important to the atmosphere within which it is experienced.
15. Insofar as it relates to these appeals, the special interest of the LB lies in the legibility of its surviving historic fabric, plan form and the evidential value of its evolving uses. The building is a visible remnant of the important gunpowder industry in Faversham and forms part of the narrative of the town, giving it a further layer of historic interest. Special interest also lies in its architectural value as a simple but aesthetically pleasing building associated with gunpowder works.
16. The proposal involves both internal and external alterations to the LB. A door and window on the southeast end elevation would be blocked up, a window and door on the northeast elevation would be removed, an internal door would be removed. New internal partitions would be installed and works to existing walls are indicated on the application drawings at the southeast end of the building. The existing living room would be turned into a master bedroom and would be subdivided to provide an ensuite bathroom and a dressing room. It is not clear from the drawings whether this would involve full height partitions and the effect on the character of the internal space cannot therefore be fully understood.
17. There is reference within the application documents to insulating currently uninsulated walls, floor and roof of the existing building but no details of the works are provided. The Flood Risk Assessment provided with the appeal states that the site is in flood zone 3 and it has a medium probability of flooding from rivers and the sea (fluvial and tidal flooding). The report recommends that the ground floor refurbishments are carried out in a flood resilient manner in line with Ciria C790F – Code of Practice for Property Flood Resilience and DCLG

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Improving the flood performance of new buildings: flood resilient construction to allow the building to recover in the event of flooding (2007). Neither of these documents refer to works to listed buildings. They indicate that the works could include waterproof plaster and the use of flood resilient floors. It is not clear what the implications of this for the LB would be and whether the flood resilient refurbishment would be suitable for the type of construction, nor indeed whether they are necessary. The works to insulate and improve the flood resilience of the building have not been detailed or justified. They are likely to be harmful to both the historic fabric and the aesthetic value of the building.

18. There is reference to repairing and repainting the external render and repainting the building. I observed that there are areas of render that have failed but no information has been provided as to the extent of the work needed or whether this would constitute a repair. The appellant states that conservation paint would be used to repaint the building in 'Suffolk Pink', but no details of the appropriateness of the colour or type of paint have been provided.
19. It is also stated that the windows will be replaced with timber double glazed windows to improve energy efficiency. It has not been argued that they require replacing due to their condition. While it is unlikely that they are original, it is probable that they replicate earlier windows. No details of the proposed replacement windows have been provided, but double glazing is likely to result in chunkier frames, cills, glazing bars and meeting rails which would change the relationship between the timber elements and the glazing, as a result the panes are likely to be slightly smaller than the existing. The double-glazed units would also be apparent due to the different visual and reflective qualities which would be discernible in views of the property.
20. I note that the extension would be set back from the road and to the side and rear of the building, so that the LB retains its prominence in the street scene. Through its design and materials it would represent a clear break between the old and the new elements and there are minimal openings in the front elevation of the extension. Nonetheless, the extension would add a significant built form, considerably taller and wider than the LB, so that it would be out of scale with it. While the highest point of the extension would be lower than the ridge of the original house, the eaves would be higher, even on the front elevation. The footprint of the extension is considerably greater than the existing house and it would not appear as a modest addition but as a large building in its own right. As a result it would visually dominate the LB, obfuscating the relationship of the LB with the adjacent pond and eroding its historic legibility as a former watch house and armoury. While the design has avoided creating a 'pastiche' of the existing building, the extension would be jarring and unsympathetic in contrast with the simple utilitarian form of the LB.
21. The loss of the large weeping willow tree to allow the extension to be built would further erode the setting and would open up public views of the extension in juxtaposition with the LB. The appellant has suggested that proposed replacement planting and the approved front boundary treatment with planting would reduce the public visibility of the proposal and therefore there would be no harm to the LB. However, listed buildings are safeguarded for their inherent architectural and historic interest, irrespective of whether or not public views of the building can be gained.

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22. The weeping willow is leaning towards the building and its roots have caused some unevenness in the surface of the parking area and entrance to the garage. It has not been argued that the tree poses an imminent risk to the LB. Even if that were the case, this does not justify the harm that would be caused to the special interest of the LB through the proposal as a whole.
23. While the Council did not raise any concerns, there has been no detailed assessment of the effects of the proposed internal and external works on the special interest of the building. I note the appellant states that the original painted target in the existing kitchen would be better revealed through the use of the room as a bedroom but the proposals would result in further alterations to the building that would result in the erosion of the legibility of the LB and harm to the historic fabric. No evidence has been put forward to indicate that it is historically appropriate to create a 'small dock abutment' alongside the lean in this position. I do not therefore consider it to be a benefit.
24. The demolition of the garden building and the garage have not been raised as concerns and I have no reason to disagree. However, they are simple buildings that do not detract from the setting of the LB and their removal is not a benefit in terms of the special interest of the LB.
25. Overall, the proposal would detract from the aesthetic and historic value of the LB, thereby harming its special interest. It follows that the proposal would fail to preserve the Grade II listed building, its setting and any features of special architectural or historic interest which it possesses. This is a matter of considerable importance and weight.

Twymans Mill

26. The Mill is a 19th century warehouse in 2 parallel ranges over 4 storeys. It appears on the 1838 tithe map. It was built as a wool warehouse but has been converted into flats with extensive alterations. It has historic interest as part of the evolution of Faversham and its role as a seaport and market town. Although it has been altered, it still has evidential value through its surviving historic fabric and plan form. It has architectural value as an aesthetically pleasing former warehouse building in a prominent location on the edge of the historic core of the town.
27. I find the special interest as derived from its setting, insofar as these appeals are concerned, to be the legibility of the functional relationship with Stonebridge Pond and the navigable routes that would have been used for transportation.
28. It is separated from the appeal site by a watercourse and there is intervisibility with the appeal site. The relationship with Stonebridge Pond and the garden of Stonebridge Lodge contribute positively to setting within which the LB is experienced due to the historic activity on the site.
29. While the extension would be visually apparent it would have little appreciable effect on the legibility of the Mill or its relationship with the pond and the garden. It would not erode the relationship between the watercourse and the former commercial building adjacent to it. The proposal would therefore preserve its special interest.

The Forge

30. The Forge is within a residential curtilage but was formerly a forge, dating from the 18th century. It is a simple single storey building in red brick and part rendered, with a plain tiled roof. Its special interest in relation to this appeal lies in its evidential value as a surviving forge building and as part of the group of former industrial buildings surrounding Stonebridge Pond. It also has aesthetic value as a former forge building. The Forge is separated from the appeal site by part of Stonebridge Pond and the pond with its mature vegetation contributes to the historic and attractive setting within which the LB is experienced.
31. I find the special interest as derived from its setting, insofar as these appeals are concerned, to be the legibility of the relationship of the former industrial use in the group of historic buildings having a functional relationship with Stonebridge Pond and the navigable routes that would have been used for transportation.
32. The proposal would result in the loss of some of the informal planting on the site, including the large weeping willow and the addition of the extension. The replacement planting consists of ornamental trees in a more formal layout and the extension would be a modern intrusion. However, due to the distance from the site and the intervening vegetation, as well as the presence of the substantial form of the Mill, the proposal would not result in a harmful intrusion into the setting of the LB. I am therefore satisfied that the special interest of the LB would be preserved.

Conservation Area

33. Much of the centre of Faversham is designated as CA. The town has Saxon origins and has been a port and market town subject to successive waves of development. It prospered with an abbey in the 12th century, while the use of Faversham Creek for navigation made it an important port with several industries flourishing, including gunpowder manufacturing. The accessibility and proximity of the town to nearby centres of naval activity and London allowed it flourish. In the 19th century the railway led to far reaching change.
34. Stonebridge Lodge is a modest building in a prominent position on an approach to the CA from the west. It is visible at the entrance to West Street, the main east-west axis of the town with much medieval fabric. Along with the adjacent Warehouse and Stonebridge Pond, it provides visible reminder of the industrial and commercial function of this part of the town. Its garden forms part of Stonebridge Pond and provides a pleasing area of open space with mature planting, including the large weeping willow tree, which is visible above the front boundary of the appeal site. It forms a backdrop to the attractive area of open space at the junction of West Street with Flood Lane and Tanners Street to the front of the Warehouse and frames Stonebridge Lodge.
35. Insofar as it is relevant to the appeals, the significance of the CA lies in its early origins and the role of the industries in its subsequent development. The appeal site makes a positive contribution to the significance of the CA.
36. The addition of the large extension and incongruous extension would detract from the visual relationship between Stonebridge Lodge, the pond and the Warehouse. This would be apparent in public views from the adjacent roads

and the area of open space. The removal of the weeping willow would open up views of the extension. While replacement planting is proposed, it would be to the side of the extension in a physically constrained position and would not frame the existing building. This would fail to preserve the character and the appearance of the CA and harm its significance which is a matter to which I attach considerable importance and weight.

Public benefits

37. Paragraph 205 of the National Planning Policy Framework (NPPF) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through the alteration or destruction of the asset or from development within its setting and that any such harm should have a clear and convincing justification.
38. Taking into account the scale and nature of the development, I find the harm to be less than substantial, but nevertheless of considerable importance and weight in the planning balance of these appeals. Where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, paragraph 208 of the NPPF advises that this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use.
39. The proposal has been designed to result in a 'zero-power carbon footprint' development, whereby the energy requirements will be provided by photovoltaic panels on the roof of the extension. Underfloor heating would be installed with an air source heat pump and the extension would use high performing thermally insulated construction materials, including the sedum roof finish. This would depend on the insulation measures to the existing listed building, for which no details have been provided. The sedum roof finish has benefits in terms of carbon sequestration, the creation of wildlife habitat, water management, air quality and thermal insulation. I accept that these are public benefits.
40. Although paragraph 164 of the Framework requires significant weight to be given, irrespective of any energy efficiency improvement and the scale of any associated carbon reduction, it does not disapply those parts of the NPPF set out above or the need to give any resulting heritage harm great weight in the public benefit balance.
41. The proposal will bring about employment through construction and local supply chain for building services and materials which are public social and economic benefits but due to the small scale these attract limited weight.
42. The appellant has argued that the proposal will result in a net increase in trees, and this would bring a range of benefits, including compliance with NP Policy NE3. The policy requires that any new planting at the feeding area at Stonebridge Pond open space shall use native species to improve biodiversity. However, the appeal site is not within the feeding area at Stonebridge Pond and in any event black birch and weeping willow are not native species. Furthermore, much of the planting would be ornamental species in a formal layout, in contrast with the informal planting around the pond. Nonetheless

there would be benefits in renewing the planting and I give this moderate weight as a public benefit.

43. The provision of additional living space is private benefit. The dwelling would expand from one bedroom to three bedrooms. The appellant argues that this would be commensurate with the size of the gardens and the form of accommodation would be more in line with current expectations. It has not been argued that there is a lack of three-bedroom houses, and I do not consider the expansion of the property to be a public benefit in this regard. I acknowledge that the site is in a location that is accessible to local amenities, facilities and public transport connections. The proposal maintains off-street parking provision and is not harmful to residential amenity.
44. There would be benefits in terms of the accessibility of the property as a dwelling as the existing building has uneven floor levels and narrow corridors, whereas the extension would be both accessibility and adaptable to future needs, in accordance with paragraph 63 of the NPPF. These are future private benefits for the occupiers of the dwelling and I have not been advised that the proposal is required to meet the specific mobility needs of a particular individual.
45. The appellant states that the works are required to repair and upgrade the LB, as it suffers from damp, and that to carry out the necessary works to the LB without the extension would not be financially feasible. However, the internal works and flood resilience measures are likely to be harmful to the special interest of the building and have not been fully justified. It has not been argued that the use as a dwelling would cease or that the LB will be at risk without the works.
46. I do not find that the public benefits are sufficient to outweigh the harm that I have identified in this instance. I also note that the continued viable use of the appeal property as a dwelling is not dependent on the proposal as the building has an ongoing residential use that would not cease in its absence.

Stonebridge Pond

47. The effect on the significance of a NDHA should be taken into account in determining the appeals, as set out in paragraph 209 of the NPPF. A balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
48. Stonebridge Pond survives from the days of gunpowder manufacture. The reservoir of water was not only used to work the powder mills but the network of waterways provided the means of moving powder safely by punt between the various processes. The finished gunpowder was loaded onto boats moored at the adjoining quay at the head of Faversham Creek. Trees have grown up around the pond so that it is now a quiet area that provides a pleasant and tranquil setting to this part of the town.
49. The proposal would result in the loss of some of the planting within the area resulting in some harm to the pleasant setting. However, there would be scope to include appropriate replacement planting if I were minded to allow the appeals. Having regard to the scale of the harm and significance of the heritage asset it would not be harmful to Stonebridge Pond as a NDHA.

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Conclusion

50. Given the above and in the absence of public benefits that would outweigh the harm that would be caused, I conclude that, on balance, the proposal would fail to preserve the special interest of the Grade II listed building and that the character or appearance of the CA would be neither preserved nor enhanced. This would fail to satisfy the requirements of the Act and paragraph 205 of the NPPF.
51. The proposal would therefore be in conflict with Swale Borough Local Plan 2017 policies CP4, CP8, DM14, DM16, DM29, DM32, DM33, NP Policies HE1, HE2 and HE3 insofar as they seek to ensure development is of a high-quality design that sustains and enhances the significance of heritage assets; avoids the loss of trees that make a positive contribution to the value of the site.

Other Matter

52. Concerns have been raised by local residents in relation to the effect of the proposal on their living conditions and on wildlife. As I am dismissing the appeals I have not considered these matters further.

Conclusion

53. For the reasons given above the appeals should be dismissed.

N Thomas

INSPECTOR

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Appeal Decision

Hearing held on 20 November 2024

Site visit made on 20 November 2024

by **D Fleming BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3 December 2024

Appeal Ref: APP/V2255/C/22/3311616

**The Happy Pants Animal Sanctuary, Land to the east of Hawes Wood,
Iwade Road, Newington, Kent ME9 7HY**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended)(the 1990 Act). The appeal is made by Ms Amey Frances James against an enforcement notice issued by Swale Borough Council.
- The notice was issued on 20 October 2022.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land to a mixed use of an animal sanctuary and the stationing of caravans for human habitation.
- The requirements of the notice are to:
 1. Cease the use of the site as an animal sanctuary;
 2. Cease the use of the site for the siting of caravans for human habitation;
 3. Permanently remove all animals and livestock from the site;
 4. Permanently remove all caravans and mobile homes along with any associated areas of decking from the site;
 5. Remove all septic tanks from the land;
 6. Demolish all buildings and structures on the land and remove the resultant debris;
 7. Permanently remove all fencing, fence posts, enclosures, cages, gates and walls from the land including those located along the front boundary adjacent to Iwade Road;
 8. Remove all vehicles, trailers, tractors, diggers and horse boxes from the land;
 9. Remove all storage containers and skips from the land;
 10. Remove all rubble and hardcore which has been imported and laid across the land or is currently being stored on the land;
 11. Remove all signage from the land; and
 12. Remove all materials including but not limited to building materials, paving slabs, plastic boxes, pallets, wood, bins, animal shelters, trampolines, wheelbarrows, water troughs, wooden cable drums, portable toilets, kennels, rubbish, tools, benches and detritus brought onto the land in association with the unauthorised mixed use.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld with variations in the terms set out below in the Formal Decision.

Preliminary Matters

1. The Hearing was held in person with a local resident joining remotely.
2. At the Hearing I discussed how I would carry out the site visit, which was to view the inside of the site and then the wider area. My view of the wider area

<https://www.gov.uk/planning-inspectorate>

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was also to involve walking along two public rights of way in the area but, in the end, I only walked along the path that led to the solar farm and not the one that led up to Callum Hill. This was because I saw what I needed to from Iwade Road and from within the site.

Background

3. The appeal site is situated in open countryside outside of any settlement boundary. It comprises an 'L' shaped parcel of land approximately 8ha in area with access from Iwade Road. The site is not level but rises in height from the roadside boundary to the north western boundary. Within the site there are two blocks of remnant orchard. The smaller block borders about half of the road boundary and the larger block occupies the top half of the site. The open land between these blocks in the middle of the site has been fenced and divided into animal pens.
4. The appellant moved onto the site at the start of 2021 initially on a one year lease but this was extended to five years in 2022. She is the chair of the Happy Pants Ranch animal sanctuary charity which provides a forever home for approximately 400-450 animals. These include farm animals such as pigs, sheep and goats as well as ponies and domestic animals such as guinea pigs, dog and cats. There are also a variety of birds including an emu, rheas, ducks, turkeys, geese and chickens.
5. In addition to the various animal housing units, there are also shipping containers used for storage of animal feed and bedding and caravans used as rest areas for the volunteers as well as housing for the animals and storage. The appellant resides on site in a mobile home.

The Notice, questions of validity and the ground (b) appeal

6. The appellant raised concerns about the wording of the allegation and the requirements of the notice. The notice identifies two primary uses within one planning unit which are the use of the land as an animal sanctuary and the use of the land to station caravans for human habitation. There is no mention of the operational development which facilitates the use.
7. It is open to the Council how they frame the notice so long as they follow the requirements set out in section 173 of the 1990 Act. Some Councils issue separate notices for allegations concerning a material change of use and operational development and others include both breaches within the one notice. Where the operational development facilitates the change of use it is not always necessary to specify it in the allegation. This is the route chosen by the Council in this case.
8. There is no disagreement between the parties that the appeal site comprises one planning unit. Clearly there is a primary use comprising the use of the land as an animal sanctuary. Where I differ from the appellant though is that I consider the siting of the mobile home for residential purposes and the use of another caravan on the site for residential accommodation to be a primary use not an incidental use.
9. An incidental use is one which is functionally related to the primary use. By definition, then, an incidental use cannot be one that is integral to or part and parcel of the primary use. The functional relationship should be one that is normally found and not based on the personal choice of the user.

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10. For example, the primary use of animal sanctuary also includes the use of the land for the storage of food and bedding. This use is normally found with the keeping of animals, there is a functional relationship and it is therefore regarded as being incidental. The appellant has chosen to live on the site and this is her sole residence. A residential use is not normally found with the keeping of animals and is of a different character. There are fields up and down the country which contain various animals but it does not follow that they also have a residential use.
11. The siting of the mobile home (which falls within the legal definition of a caravan) provides self-contained living accommodation. This is a primary use and therefore the Council were correct to frame the allegation as a material change of use to a mixed use comprising two primary uses within one planning unit.
12. The mobile home occupied by the appellant is in the middle of the site. There are various other caravans placed around the site which are used for storage or to house the cats for example. However, the appellant disputes that any are currently used for habitation.
13. In appealing on ground (b) the burden of proof is firmly on the appellant to show that the matters alleged have not occurred as a matter of fact. As she stated a second caravan (a touring caravan) was occupied for residential purposes for a few months following a break down in a personal relationship, this demonstrates that the matter alleged has occurred as a matter of fact. This was also seen by the Council at their September 2022 site visit. The Council were therefore correct to refer to "caravans" in the plural in the allegation and the appeal on ground (b) fails.
14. Turning now to the requirements of the notice, the appellant challenges the validity of the notice on the basis that there is a lack of clarity. This is primarily because the notice is not accompanied by either a plan showing all the caravans and buildings etc that the Council require to be removed or a survey conducted by the Council of what existed before the notice was served.
15. In the first instance, where the allegation relates to a material change of use to a mixed use then it follows that the first requirement should be to cease the mixed use. The Council have spelt this out as two separate actions but that is incorrect. However, there would be no injustice to either party if I were to vary the requirements to follow the correct approach.
16. The remaining requirements refer to a long list of items to be removed from the site in order to remedy the breach of planning control. The Planning Practice Guidance states that notices are not improved by over-elaborate wording and s173(4) of the 1990 Act sets out that the breach may be remedied by "restoring the land to its condition before the breach took place".
17. Setting out a shopping list of requirements in order to safeguard the Council's position at any future prosecution overlooks what has been held in *Miller-Mead*¹. Similarly, requiring the Council to produce a survey of what they found is also unreasonable when it has been held that the appellant is in the best position to know what she has done before the issue of the notice. The Council followed best practice and issued a Planning Contravention Notice in August

¹ *Miller-Mead v MHLG* [1963] 2 WLR 225

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2022 in which they asked about buildings and structures on the site not included in the planning application.

18. It seems to me that the requirements can simply be varied to require the restoration of the land to its condition before the breach took place. Neither party would be prejudiced by this variation as it would cover the removal of various items such as the waste brought onto the site (investigated by the Environment Agency), the animal housing, the shipping containers, the cesspits, the Portaloos and the caravans. It was open to the appellant to submit an appeal on ground (f) if she had any evidence that any of the operational development or structures were in place before the change of use took place but she did not.

The ground (c) appeal

19. An appeal on ground (c) is that there has not been a breach of planning control in relation to the fencing, enclosures and gates at the site. The appellant accepts that they are development within the meaning of section 55 of the 1990 Act but considers that they benefit from the permitted development allowed for in the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO).
20. At the Hearing the appellant conceded her interpretation of the GPDO was incorrect. Article 3(5)² of the GPDO applies, express planning permission is required, which has not been applied for and therefore there has been a breach of planning control. As such, the appeal on ground (c) fails.

The ground (a) appeal and the deemed application

Main Issues

21. The main issues are (i) whether the site is an appropriate location for the use, having regard to local planning policy; the effect of the development on (ii) the rural character and appearance of the area; and (iii) the living conditions of neighbouring occupiers, having regard to noise and disturbance.

Reasons

Location of the use

22. The Council's local plan (LP) is the Bearing Fruits 2031 The Swale Borough Local Plan, Adopted July 2017. Policy ST 3 The Swale Settlement Strategy sets out the Council's approach to development in the borough. It steers development towards major settlements and development in the countryside will only be permitted where it can be demonstrated, amongst other matters, that it would contribute to protecting the intrinsic value, landscape setting, tranquillity and beauty of the area.
23. Policy DM 3 The Rural Economy is directed at economic growth in rural areas and supports land-based businesses. In the first instance, it requires previously developed land to be considered or if not available that it is demonstrated that a particular location is necessary. In addition, for all

² The permission granted by Schedule 2 does not apply if – (a) in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building or unlawful; (b) in the case of permission granted in connection with an existing use, that use is unlawful.

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proposals, they should not result in significant harm to, amongst other matters, biodiversity, landscape or the rural character of the area.

24. There is no doubt that due to some of the animals kept by the appellant (Sheep, pigs, goats for example), the animal sanctuary use is a land-based enterprise. None of the animals are bred and some are re-homed such as the cattle that were there in 2021. However, the appellant has provided no particular justification for the location of the sanctuary (it is not an agricultural use and one is thus required) other than it was the only site offered to her when she had to vacate her previous site at short notice. She stated that the appeal site had been unused for about 15 years and that prior to that the owners had kept pigs there. It had therefore been unmanaged for several years when she took it on.
25. The appellant states she carried out various preparations in order to make the site suitable for the animal sanctuary use. These included importing inert waste for the access track and hard standing areas, installing shipping containers, the digging of a pond for some of the animals and the erection of fences to secure the site and subdivide the open area into pens. Electricity is provided by a generator and sewerage is dealt with by cesspit/septic tank but there appears to be a connection to mains water. Thereafter she provided housing of various descriptions for the assorted animals as well as facilities for her numerous volunteers.
26. It was submitted that some flexibility is justified in finding that the use is acceptable as it is similar to a smallholding and can only be in the countryside. However, while it is accepted that the use is land based, comparisons with smallholdings are not convincing due to the number and variety of animals kept at the sanctuary.
27. It seems to me that the suitability of the site was just that it was available and larger than her previous site, which was 2.4ha. Other than an existing pig shelter in the orchard in the top half of the site, there was nothing else that made it predisposed for an animal sanctuary use, such as former livestock buildings. To that end there is conflict with Policy DM 3 1.b. This requires where sites are not available that it is demonstrated that a particular location is necessary to support the needs of rural communities or the active and sustainable management of the countryside. The appellant has failed to show how the animal sanctuary use complies with these requirements.
28. Similarly, it appears to have been the appellant's intention from the outset to live on the site. The mobile home was brought onto the site when the site was being prepared and although the appellant stated in early emails to the Council it was to be used by volunteers during the day, following a theft from the site, she began living there.
29. The residential use conflicts with Policy ST 3 which, although adopted in 2017, remains consistent with the National Planning Policy Framework (the NPPF). This states that decisions should avoid the development of isolated homes in the countryside unless there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.
30. The Council's rural consultant was invited to comment on the application submitted by the appellant after she began using the site. They agreed that the continued operation of the animal sanctuary use required an on-site

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presence for the proper care of the relatively large number and variety of animals involved, including out of normal working hours. He stated that the use applied for was for a temporary period and the appellant was willing to accept the imposition of a condition similar to an agricultural workers' condition.

31. I note the consultant's comments were based on the fact that permission was sought for a temporary period and that it was unlikely the charity would meet the usual financial tests that are applied to proposals for permanent rural workers' dwellings. The appellant confirmed at the Hearing that the deemed application before me was for a permanent planning permission. At the site visit I saw there is some security on the site but there appears to be a need for an on-site presence, in the interests of animal welfare. This was accepted by the Council at the Hearing provided there was an appropriate condition to control the use.
32. I have not reached an overall conclusion at this stage on Policies ST 3 and DM 3 as they have requirements that fall to be considered under other issues, which I will now move on to.

Character and appearance, visual

33. The appeal site lies within a locally designated Area of High Landscape Value known as the Swale Level, which is land between the villages of Newington, Lower Halstead and Iwade. This is set out in Policy DM 24 Conserving and enhancing valued landscapes. Land near the appeal site is mainly in arable use with large fields and there are expansive views over this area from Callum Hill and the top half of the appeal site. Within this area there are also blocks of remnant orchards as well as the ancient woodland (Hawes Wood) abutting the south west boundary of the appeal site and in the distance the more recent developments of solar farms.
34. Some fields have hedges or lines of trees that mark their boundaries which means that only short distance views are possible and some sites are partially enclosed. That is the case with the appeal site which is screened by woodland on three sides. Where the site was open to view from Iwade Road, this has now been blocked by new fencing and gates set back from the road. Only when the double gates are open is it possible to see part of the site. It is possible from Iwade Road to glimpse the pen adjoining Blackberry Farm to the north but this is only in passing and because it is on rising land. Otherwise, the activities within the site, the caravans and the animal shelters result in limited visual harm on the surrounding character and appearance of the area. Nevertheless, there is harm and as such the development does not accord with Policy DM 24 which requires the value, character, amenity and tranquillity of the Borough's landscapes to be protected.
35. I have noted the Council's concerns over the appearance of the Iwade Road fencing but I found it was not out of place as there are examples of similar fencing in the area, for example, High Oak Hill Farm. This fencing is built on the edge of the road whereas at Happy Pants Ranch it is set back behind an overgrown verge. The front garden to Blackberry Farm has a simple post and rail fence but that is not always the case for residential properties in the area where I saw a variety of boundary treatments erected for privacy and security.

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Character and appearance, loss of habitat

36. The change to the character and appearance of the area is not restricted to visual changes. The development has affected the habitats that previously existed on the site and threatens to harm the adjacent ancient woodland, which is also designated as a Locally Designated Site of Biodiversity Value and Local Wildlife Site in the LP. Aerial photographs and Google Street View images show that prior to the new use, the open part of the site appeared to have become scrub, an important transitional area where grassland changes to woodland. The supporting text to Policy DM 29 Woodlands, trees and hedges also highlights that traditional orchards are rich in biodiversity. Behind the field gate there also appeared to be just a grass track adjacent to part of Hawes Wood.
37. As the appellant began the use before the outcome of her planning application, she only submitted an Ecological Appraisal after the notice was issued. Field survey data was therefore gained after significant changes had already been made to the site. Nevertheless, the ecologist was able to derive sufficient information from his visits and other sources to ascertain what had existed beforehand.
38. One of the most significant changes on site was the construction of a permanent internal road approximately 200m in length adjacent to the Hawes Wood boundary. This was made using unknown numbers of lorry loads of "mixed construction and demolition waste", as described by the Environment Agency. Their photographs show this waste contained large volumes of plastic packaging, plastic bottles, wires, electrical equipment and metal mixed amongst the concrete and bricks. It appears the construction of the road made no provision for surface water drainage.
39. The road has been constructed adjacent to the ancient woodland boundary without observing the recommended³ 15m wide buffer zone from the boundary of the wood to avoid for example root damage. The road also includes a parallel hard surfaced area which is used for vehicle parking and at the time the notice was issued for the placing of sheds and shipping containers.
40. Buffer zones should consist of semi-natural habitats such as a mix of scrub and grassland which enable wildlife to flourish and are created to protect the trees from negative effects. This could be surface water runoff from the road and hard surfaced area. Whilst the appellant has now repositioned the sheds and shipping containers away from the ancient wood, and maintains a buffer zone at the top of the site, the significant harm caused by the construction of the road and hard surfaced area remains.
41. The Ecological Appraisal included evidence from old maps to show that the boundary between the sites may have comprised a hedge as these were often used to prevent cattle straying into the valuable woodland. As a temporary measure the appellant has nailed a means of enclosure to the trees on the boundary but the Council's Tree Officer states this may have damaged them by creating wounds that can be channels for infection.
42. Whilst the appellant has offered to replant a hedge, which would go some way to replacing some habitat, this ignores Government advice for a buffer zone

³ Government Guidance: Ancient woodland, ancient trees and veteran trees: advice for making planning decisions, from Natural England, published 14 January 2022

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and overlooks the harm caused by the construction of the road and hard surfaced area. In addition, with some of the rescue poultry on site being free range and the rescue cats roaming at will, it is not known how such a hedge could be protected until it is established. In addition to the hedge, it was also suggested that cars could, as an intermittent use, continue to be parked adjacent to the wood. However, access is only allowed to a buffer zone if the habitat is not harmed by trampling. This therefore would neither respect the habitat nor the buffer zone.

43. The former scrub area in the middle of the site was cleared and is now used to house former farm animals. The appellant's ecologist describes how some of this area has now suffered serious poaching, which is where the animals have cut up the turf with their hooves. I saw significant ground disturbance across most of the site due to the number and type of animals that are kept. It was also stated that the pen used to keep the ponies in is unsuitable for their use in the winter. The ponies have now been moved off site to alternative pasture. There is no grassland left for the animals to graze and they are fed using imported food.
44. The Ecology Appraisal recommends replanting the grassland and light grazing by sheep thereafter. However, it is not clear how this could be achieved without removing some of the animals from the site to allow the land to rest and recover and then be managed more sensitively.
45. Some of the pigs make use of part of the remnant orchard at the top of the site. As pigs root and do not graze it is not clear how tree roots are being protected or again how the ecologist's recommendations for the restoration of the remnant orchard habitat could be achieved. In addition, some of the pigs make use of the former grassland/scrub area making it difficult to restore and manage that area.
46. There are ponds within the site and ponds within Hawes Wood, which are shown on historic maps and therefore it is likely that they are rich in wildlife due to their age. The appellant has also made a new pond. Previous wildlife surveys have found great crested newts in the area but these surveys are more than three years old so the evidence base is not up to date. Nevertheless, old ponds can still be a haven for a variety of wildlife and even though the appellant has made a pond for the rescue terrapins, there is nothing to stop the rescue poultry from disturbing the wildlife in the other ponds.
47. I therefore find that the use has resulted in significant harm to the existing site habitats and, furthermore, that the development could lead to the deterioration of ancient woodland. There is therefore conflict with Policies DM 28 Biodiversity and geological conservation and DM 29, which require amongst other matters the conservation of biodiversity. Notwithstanding the appellant's recommendations from her ecologist, via a suitably worded condition, to retain, enhance and manage the site habitats, I find for the reasons given that these would be insufficient to mitigate the harm I have found.

Character and appearance, traffic/rural lanes

48. The sanctuary use as a charity relies on volunteers to look after the animals and the appellant states there are around 6 people on site every day. Given the location of the site it appears the volunteers arrive by car. It is possible that some may car share and some may cycle but the site is over 1km from

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Newington and therefore it is unlikely that anyone would arrive by train or bus and walk along Iwade Road given the distance and the absence of a footpath. The appellant orders and receives food for the larger animals once a month and bedding is brought twice a month in a pickup truck and trailer. Small animal food is brought by the appellant in her own car. Chicken manure is collected by the Council. Horse, sheep and goat droppings are placed in a bucket and are taken by passers-by who bring a bag to collect it. Pig manure is left on the ground in the top remnant orchard.

49. Iwade Road is defined in the LP as a protected rural lane that is part of the character of the Swale landscape. It is unclassified and single track with the occasional passing bay. Policy DM 26 Rural lanes states that planning permission will not be granted for development that would significantly harm the character of rural lanes as a result of traffic levels. When the Highway Authority commented on the planning application seeking a temporary use, they recommended that the use be limited to two years so that the effect of the appellant's plans for open days could be monitored and assessed.
50. As permission was refused, monitoring and assessment has not occurred although the appellant held 23 open days in 2023 and 13 in 2024. It is not known whether they raised any issues but each open day was limited to 10 cars. The increased number of vehicles using the lane may have resulted in a change to the character of the lane but this is unlikely given the limited number of vehicles and the dates of the open days largely restricted to the school summer holidays. As such, any change would have been temporary and I find that it has not been demonstrated that this significantly harmed the character of the lane so as to conflict with Policy DM 26. In addition, the limited traffic associated with the running of the site has not resulted in significant harm to the character of the lane.

Living conditions

51. There are several dwellings along Iwade Road in the vicinity of the appeal site but the nearest is Blackberry Farm, a detached dwelling with land to the rear situated immediately to the north of the remnant orchard bordering Iwade Road. To the south of Hawes Wood there is also Woodland Farm comprising poultry buildings and a detached dwelling occupied by the farmer. On the other side of Iwade Road there is a cluster of dwellings around High Oak Hill Farm house.
52. The Sanctuary looks after a significant number of animals and the Council received noise nuisance complaints from local residents from when the use started. These complaints were investigated and several noise readings were taken in June and July 2021. Statutory nuisance was found and this resulted in the issue of two noise abatement notices by the Council in July 2021. One noise abatement notice was issued in respect of the electricity generator and the other was in respect of the "Cumulative constant daily noise from animals including cockerels, geese, sheep, cattle and dogs kept on the premises."
53. Whilst the generator is now switched off at 6pm every evening, the complaints continued in respect of the noise from the animals and so in 2024 noise was recorded using monitoring equipment. This found after analysis that noise from the animals is constant and is not dependent on just one type of animal such as the cockerels but, for example pig squealing was also referenced. The

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Council have therefore commenced prosecution proceedings for non-compliance with the abatement notice.

54. The appellant has tried to abate the noise by moving the cockerels to the western corner of the site but as most of them are free range, this has not satisfactorily abated the noise. The cows have now been re-homed but the site still contains a significant number of pigs (over 30) as well as birds. The response to the Planning Contravention Notice in September 2022 stated that there were 26 geese, 28 ducks, 115 chickens (of which 40 were cockerels), 9 turkeys, 4 peacocks, 2 emus and 1 rhea. These numbers may have changed since then, for example I saw that there are now around 6 rheas and only 1 emu.
55. It was submitted that prior to the use commencing on the site surrounding neighbours would have enjoyed background noise levels commensurate with a disused rural site. However, a third party stated that Hawes Wood is used for pheasant shoots so there would be short term noise events during the shooting season. On occasion there would also be noise from managing agricultural arable land which borders Iwade Road. It seems to me that the use of the appeal site gives rise to noise complaints not because the previous scene was tranquil and neighbours had become used to that but because the new use results in more or less constant noise disturbance to such a level that it is unacceptable.
56. The living conditions of nearby neighbours have also been disturbed by stray animals escaping into their properties or along the highway. The appellant was warned about this in October 2022 when the Council issued a Community Protection Warning letter. However, the problem persisted and so a Community Protection Notice (CPN) was issued in April 2023 which listed that there was evidence of stray animals regularly between October 2022 until the end of March 2023. The reason for issuing the CPN was to prevent the detrimental effect of stray animals on the quality of life of those in the neighbourhood.
57. Despite the CPN, stray animals continued to cause a disturbance and the appellant was served with two Fixed Penalty Notices on 20 April and 18 May 2023. At the Hearing a third party stated that their garden fences have been broken down and that they have suffered incursions from all sorts of animals. I find that the repeated occurrence of stray animals is unacceptable and is indicative of potentially either/or poor management/inadequate fencing.
58. For these reasons I find there is significant harm caused to the living conditions of neighbouring occupiers, having regard to noise and disturbance. As such, the use does not accord with Policy DM 14 General development criteria which requires no significant harm to be caused to amenity and other sensitive uses or areas. The appellant has suggested a condition could be imposed requiring the animals causing the noise to be removed from the site or, relocated within the site or, reduced in numbers so as to overcome noise concerns. It seems to me though that she has already tried some of these options to no avail, such a condition would therefore be ineffective and would not make the development acceptable.

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Interim conclusion

59. Whilst I have found no significant harm to the character of the rural lane, I have found limited visual harm to the character and appearance of the area and significant harm to the existing site habitats and the living conditions of neighbouring occupiers. Overall therefore, the development conflicts with Policies ST 3 and DM 3 as it has not been demonstrated that the use contributes to protecting the intrinsic value, landscape setting or tranquillity of the area. In addition, it has not been demonstrated that the various suggested conditions would make the development acceptable.

Intentional unauthorised development

60. It is now well-established Government planning policy that intentional unauthorised development is a material consideration that should be weighed in the determination of planning applications and appeals. The Written Ministerial Statement announcing this policy stated that it applied to all new planning applications and appeals received since 31 August 2015. The change of use of the land was clearly done in the knowledge that planning permission was required. However, there was no attempt to hide the fact and a planning application was submitted for the development. Nevertheless, it was intentional unauthorised development to which I attach some weight against the grant of planning permission.

Other Matters

61. Local residents have expressed concerns on two other matters. However, biosecurity is outside the legal framework of my decision and is the responsibility of other agencies and a loss of privacy caused by trespass is a private matter.

Overall conclusion

62. For all these reasons the appeal on ground (a) fails.

The ground (g) appeal

63. This ground of appeal is that the six month period given to comply with the requirements of the notice is too short. The appellant requests that this be increased to 12 months to allow time to fund raise to pay the costs of moving a significant number of animals elsewhere or to re-home them. Without such time, there is the possibility that the charity would close.

64. I accept that a longer period would be helpful to secure the future of the animals and also for the personal requirements of the appellant but, on the face of it, I consider six months is a reasonable period to comply with the actual requirements of the notice. That is, after all, the purpose of the time allowed in the notice, not necessarily to provide time to fund raise.

65. The notice however also results in the engagement of Article 8 rights and Article 1 rights (1st Protocol) in that there will be interference with the occupiers' home and home life. Those rights are qualified though and it is for the decision maker to ensure interference is proportionate. In this case the reasons for the issue of the notice relate to the harm to the living conditions of local residents and the character and appearance of the area. These are, in my view, strong planning reasons for issuing the notice.

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66. Whilst in theory the use could cease within six months, there is at present no alternative site available to the appellant. The appellant runs a small charity and it was stated that there are no funds available to buy another site or even to pay the costs of removing the animals and the various structures off site.
67. Notwithstanding this, I consider that a period of a year would be tantamount to a grant of temporary planning permission. In my view an increase to nine months would strike an appropriate balance between the needs of the appellant and the reasons for issuing the notice. To this limited extent the appeal on ground (g) succeeds.

Conclusion

68. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with variations and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act.

Formal Decision

69. It is directed that the enforcement notice is varied by:

- (i) The deletion of the steps required to be taken in paragraph 5 of the notice and their replacement with:
 - Cease the mixed use of the site;
 - Restore the land to its condition before the breach took place; and
- (ii) Delete the period of "six (6) months" in paragraph 6 of the notice and replace with "nine (9) months".

Subject to these variations, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act.

D Fleming

INSPECTOR

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APPEARANCES

FOR THE APPELLANT:

Anthony Keen	Agent
Neil Coombes	Ecological consultant
Amey James	Appellant
Stuart Newson	Volunteer at Happy Pants

FOR THE LOCAL PLANNING AUTHORITY:

Izindi Visage	Solicitor, Ivy Legal
Neil Whittaker	Planner, Ivy Legal
Helen Forster	Ecologist, Kent County Council

INTERESTED PARTIES:

Julia Bell	Volunteer at Happy Pants
Harry Nash	Local resident
Journalist	Kent Online Media Group

DOCUMENT

Annotated Google Earth image to show buildings on site, October 2024, submitted by appellant

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